IOWA COURT RULES

FIFTH EDITION

September 2021 Supplement



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PREFACE

The Fifth Edition of the Iowa Court Rules was published in July 2009 pursuant to Iowa Code section 2B.5(2). Subsequent updates to the Iowa Court Rules, as ordered by the Supreme Court, are published in electronic format only and include chapters that have been amended or adopted.

The Iowa Court Rules and related documents are available at www.legis.iowa.gov/law/courtRules.

To receive e-mail notification of the publication of a Supplement to the Iowa Court Rules, subscribe at www.legis.iowa.gov/subscribe/subscriptions.

Inquiries. Inquiries regarding access to the Iowa Court Rules should be directed to the Legislative Services Agency's Computer Services Division Help Desk at 515.281.6506.

Citation.	The rules shall be cited as follows:

Chapter 1	Iowa R. Civ. P.
Chapter 2	Iowa R. Crim. P.
Chapter 5	Iowa R. Evid.
Chapter 6	Iowa R. App. P.
Chapter 16	Iowa R. Elec. P.

Chapter 32 Iowa R. of Prof'l Conduct
Chapter 51 Iowa Code of Judicial Conduct

All other rules shall be cited as "Iowa Ct. R."

Supplements. Supplements to the Fifth Edition of the Iowa Court Rules have been issued as follows:

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2009 — August, September, October, November, December
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2010 — January, February, March, May, June, August, September, December

2011 — February

2012 — January, May, June, August, September, December

2013 — March, May, June, August, September, November, December

2014 — January, March, April, June, December

2015 — January, April, May, October, December

2016 — February, July, August, December

2017 — January, April, August, September, November, December

2018 — June, August, December

2019 — February, July, August, December

2020 — February, April, June, September, October, December

2021 — April, May, June, July, August

September 2021 Supplement

Changes in this supplement

Rule 31.1 Amended	Rule 39.4 Amended
Rule 31.5 Amended	Rule 39.7 Amended
Rule 31.9 Amended	Rule 39.8 Amended
Rule 31.13 Amended	Rules 39.10 to 39.12 Amended
Rule 31.16 Amended	Rule 39.14 Amended
Rule 34.2 Amended	Rule 39.17 Amended
Rule 34.3 Amended	Rule 40.3 Amended
Rule 34.6 Amended	Rule 41.10 Amended
Rule 34.8 Amended	Rule 42.2 Amended
Rule 34.12 Amended	Rule 42.8 Amended
Rules 34.16 to 34.18 Amended	Rule 43.4 Amended
Rules 34.20 to 34.23 Amended	Rule 43.8 Amended
Rule 34.25 Amended	Rule 46.3 Amended
Rule 36.11 Amended	Rule 47.1 to 47.3 Amended
Rule 36.16 Amended	Rule 47.6 Amended
Rule 36.20 Amended	Rules 47.8 to 47.10 Amended
Rule 36.24 Amended	Rule 47.12 Amended
Rule 37.1 Amended	Rule 47.13 Amended
Rule 38.2 Amended	Rule 47.16 Amended
Rule 38.5 Amended	Rule 47.17 Amended
Rule 38.6 Amended	Rule 49.1 Amended
Rule 39.2 Amended	Rule 49.2 Amended

INSTRUCTIONS FOR UPDATING THE IOWA COURT RULES

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CHAPTER 31 ADMISSION TO THE BAR

Rule 31.1 Board of law examiners.

31.1(1) *Composition.*

- a. The board of law examiners consists of five persons admitted to practice law in this state and two persons not admitted to practice law in this state. Members are appointed by the supreme court. A member admitted to practice law must be actively engaged in the practice of law in this state.
- b. Appointments are for three-year terms that commence on July 1 of the year in which the appointment is made. Vacancies must be filled for the unexpired term by supreme court appointment. Members may serve no more than three terms or nine years, whichever is less.
- c. Members must sign a written oath to faithfully and impartially discharge the duties of the office and must file the oath in the office of professional regulation. They will be compensated for their services in accordance with the provisions of Iowa Code section 602.10106.
- d. The supreme court may appoint temporary examiners to assist the board, who will receive their actual and necessary expenses to be paid from funds appropriated to the board.
- e. Members of the board of law examiners and the temporary examiners will be paid a per diem in an amount the supreme court sets for each day spent in conducting or grading the examinations of the applicants for admission to the bar and in performing administrative and character and fitness investigation duties. They will also be reimbursed for additional expenses necessarily incurred in the performance of such duties.
- f. The executive director of the office of professional regulation will designate a director of admissions of the office of professional regulation to serve as the principal administrator for the board of law examiners. Wherever in this chapter a reference to the "director" appears, it will refer to the director of admissions of the office of professional regulation.
- g. The executive director of the office of professional regulation must, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget covering the board's operations for the upcoming fiscal year. Approval of the budget by the court authorizes payment as provided in the budget. A separate bank account designated as the admissions operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement must be deposited in the admissions operating account for payment of the board's authorized expenditures.
- h. Claims against members of the board and the executive director, directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669
- *i.* The board of law examiners and its members, employees, and agents; temporary law examiners; and the executive director, directors, and the staff of the office of professional regulation are immune from all civil liability for damages for conduct, communications, and omissions occurring in the performance of and within the scope of their official duties relating to the examination, character and fitness qualification, and licensing of persons seeking to be admitted to the practice of law.
- *j.* Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity, including any person, firm, or institution, without malice, to the board of law examiners, its members, employees, or agents, or to the executive director, director, and the staff of the office of professional regulation are privileged, and civil suits for damages predicated thereon may not be instituted.

31.1(2) Duties.

- a. The board may adopt rules to govern the method of conducting the bar examination. Such rules must be consistent with these rules and are subject to supreme court approval.
- b. The authority to pass on the sufficiency of applications for permission to take the bar examination is vested in the board of law examiners, subject to supreme court review.
- c. The members of the board authorized to grade examinations will make the final decision on passage or failure of each applicant, subject to the rules of the supreme court. The board must also recommend to the supreme court for admission to practice law in this state all applicants who pass the bar examination and the Multistate Professional Responsibility Examination, and who meet the requisite character and fitness requirements. The board, in its discretion, may permit an applicant to take the bar examination prior to finally approving that person as to character and fitness. It

may impose specific conditions for admission based on its evaluation of character and fitness and must withhold recommendation of admission until those conditions are satisfied. An applicant who passes the bar examination must satisfy such character and fitness conditions and any other conditions imposed by the board within one year of the date of the applicant's passage of the examination. This period may be extended by the board upon the applicant's showing of good cause. If any conditions imposed are not satisfied within the applicable period of time, the applicant's passage of the examination is null and void and the applicant must retake the bar examination in order to gain admission. The supreme court will make the final determination as to those persons who are admitted to practice in this state.

d. An applicant who has passed the examination and is eligible for admission must be administered the lawyer's oath by a supreme court justice within one year of the date the bar examination score was posted or the date of fulfilling all eligibility requirements, whichever is later. An applicant who fails to be administered the oath within this deadline will no longer be eligible for admission and the applicant's passage of the examination will be null and void. This deadline may only be extended by the board upon a showing of exceptional circumstances.

[Court Order July 2, 1975; September 20, 1976; April 17, 1990, effective June 1, 1990; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; November 9, 2001, effective February 15, 2002; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; February 20, 2012; December 10, 2012; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 31.2 Registration by law students.

- **31.2(1)** The law student registration requirement is removed. Applicants who have a law student registration on file with the board under the prior version of this rule on or before January 15, 2021, and who wish to apply to take the bar examination must still make application under rule 31.5 and must pay a fee equivalent to the fee specified in rule 31.6(3).
- **31.2(2)** Registration as a law student under this rule is not deemed an application for permission to take the bar examination.

[Court Order July 2, 1975; September 20, 1976; December 16, 1983—received for publication May 30, 1984; February 16, 1990, effective March 15, 1990; April 16, 1992, effective July 1, 1992; March 26, 1993, effective July 1, 1993; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 112); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; April 9, 2009; December 10, 2012; August 21, 2013; April 25, 2014; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 18, 2020, effective January 1, 2021]

Rule 31.3 Required examinations.

- **31.3(1)** *Iowa bar examination.* The provisions of this rule apply to the dates and content of the Iowa bar examination beginning with the February 2016, examination administration.
- a. Written examinations for admission to the bar will be held in Polk County, Iowa, commencing with a mandatory orientation session on the Monday preceding the last Wednesday in February and on the Monday preceding the last Wednesday in July.
- b. The Iowa bar examination will be the Uniform Bar Examination (UBE) prepared and coordinated by the National Conference of Bar Examiners (NCBE). The UBE is given and graded according to standards agreed upon by all UBE jurisdictions and consists of three components: the Multistate Essay Examination (MEE), the Multistate Bar Examination (MBE), and the Multistate Performance Test (MPT). Applicants must take all three components in the same examination administration to earn a UBE score that is transferable to other UBE jurisdictions. The three-hour MEE component consists of six essay questions, the three-hour MPT component consists of two performance tests, and the MBE component consists of two three-hour sessions of 100 multiple-choice questions each. The schedule may vary for applicants who are granted testing accommodations. Transferred or banked MBE scores are no longer accepted.
- c. The MEE portion of the examination consists of questions from subjects the NCBE designates. Some MEE questions may include issues from more than one area of law. Subject matter outlines for the MEE are available on the NCBE website.
- d. Applicants must achieve a combined, scaled score of 266 or above to pass the examination. The bar examination results require a vote of at least four members of the board of law examiners admitted to practice law in Iowa.

31.3(2) *Multistate Professional Responsibility Examination.*

- a. Each applicant for admission by examination must earn a scaled score of at least 80 on the Multistate Professional Responsibility Examination (MPRE) administered by the NCBE. The applicant's MPRE score must be on file with the board no later than April 1 preceding the July examination or November 1 preceding the February examination. MPRE scores will only be accepted for three years after the date the MPRE is taken.
- b. It is the responsibility of the applicant to ensure that a score report from the NCBE is sent to the board by the date indicated above. An applicant who cannot meet the deadline for posting a passing MPRE score must file a petition asking for permission to post a passing score after the deadline. The petition must state why the score could not be timely posted and indicate when the applicant will take the MPRE. A petition to post the score prior to the bar examination may be addressed by the board, but a petition to post a score after the bar examination must be addressed by the supreme court. [Court Order July 2, 1975; September 17, 1984; October 23, 1985, effective November 1, 1985; January 3, 1996; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 101); July 26, 1996; September 12, 1996; October 3, 1997; July 11, 2000; November 9, 2001, effective February 15, 2002; August 28, 2006; June 5, 2008, effective July 1, 2008; September 17, 2008; December 10, 2012; December 16, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

Rule 31.4 Admission by transferred UBE score.

- **31.4(1)** *UBE* score transferability. An applicant who has earned a UBE score in another jurisdiction may transfer the UBE score and file an application for admission by transferred UBE score at any time on or after December 1, 2015, provided:
 - a. The transferred UBE score is NCBE-certified and is a combined, scaled score of 266 or above.
- b. The application includes a nonrefundable administrative fee of \$900. The applicant must pay the applicable fee charged by any electronic application vendor.
- c. The applicant causes the NCBE to transfer the UBE score no later than three months after the application is filed.
- d. The applicant has received an LL.B. or a J.D. degree from a reputable law school fully or provisionally approved by the American Bar Association at the time the applicant graduated. Proof of this requirement will be by affidavit of the law school's dean on the board's dean's affidavit form. The affidavit must be made before an officer authorized to administer oaths and having a seal.
 - e. The applicant has earned a scaled score of at least 80 on the MPRE administered by the NCBE.
- f. The applicant has not been denied admission or permission to sit for a bar examination by any jurisdiction on character and fitness grounds.
- **31.4(2)** *Time limits for transferring a UBE score*. A UBE score can be transferred to Iowa subject to the following time limits:
- a. Any applicant may transfer a qualifying UBE score without a showing of prior legal practice if the score was from a UBE administered within two years immediately preceding the transfer application filing date.
- b. An attorney applicant may transfer a qualifying UBE score up to five years after the examination was taken upon proof that the applicant regularly engaged in the practice of law for at least two years of the last three years immediately preceding the transfer application filing date. For the purposes of this rule, "regularly engaged in the practice of law" means the applicant has practiced law for at least 1000 hours per year. The board may require the applicant to provide a certificate of regular practice required for motion applicants under Iowa Court Rule 31.13(1)(b) that addresses the period of practice this rule requires.
 - **31.4(3)** *Character and fitness investigation.*
- a. The board will investigate the moral character and fitness of any applicant for admission by transferred UBE score and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report on the applicant. The board may require that an applicant obtain, at applicant's expense, an investigative report from the NCBE if, in the board's judgment, the application reveals substantial questions regarding the applicant's character or fitness to practice law. Any applicant obtaining an NCBE investigative report must pay the NCBE required fee in addition to the administrative fee. The board's decision to require an NCBE report is not subject to review.
- b. The board may impose specific character and fitness or other conditions for admission on the applicant and will withhold recommendation of admission until those conditions are satisfied.

- **31.4(4)** Time for satisfying admission requirements. Applicants for admission by transferred UBE score must satisfy all requirements for admission to the bar of this state within one year after the date of written notification to the applicant that the transfer application has been granted or of the conditions the board has imposed. The one-year period may be extended by the board upon the applicant's showing of good cause. The supreme court will make the final determination as to those persons who will be admitted to the practice in this state.
- **31.4(5)** Only certified UBE scores will be accepted. The board will not accept transferred scores unless they are certified as UBE scores by the NCBE and will not address petitions to treat a noncertified score as a UBE score.
 - **31.4(6)** Oath or affirmation before Iowa Supreme Court; exceptions.
- a. An applicant who is granted admission by transferred UBE score must appear for admission by oath or affirmation before an Iowa Supreme Court justice, unless the supreme court orders otherwise based upon the applicant's satisfactory showing of exceptional circumstances.
- b. An applicant may file a petition seeking permission to be administered the lawyer's oath or affirmation in the jurisdiction in which the applicant is currently licensed or before a judge advocate general if the applicant is currently a member of one of the armed services of the United States. The petition must set forth in detail: the exceptional circumstances that render the applicant unable to appear for admission before an Iowa Supreme Court justice; the name, title, business address, and telephone number of the justice, judge, clerk of court, court administrator, or judge advocate general who will administer the lawyer's oath or affirmation; and the statute or court rule authorizing that person to administer an oath or affirmation.
- c. If the supreme court grants the petition, the office of professional regulation will forward all required documents to the applicant. The applicant will be deemed admitted to the Iowa bar on the date the completed documents are filed with the office of professional regulation.
- d. The applicant must take the lawyer's oath or affirmation from an Iowa justice, or file the completed paperwork from an out-of-state oath or affirmation, within one year after the date the application for admission is granted or the application will be deemed to be denied.
- **31.4(7)** Stale applications. An application for admission by transferred UBE score that the board has not granted will be deemed administratively withdrawn one year from the date the application was filed with the office of professional regulation, except when the board has imposed specific character and fitness or other conditions for admission on the applicant under rule 31.4(3).
- a. Before the one-year withdrawal date, an applicant may request an extension. If the board finds that administrative withdrawal of the application would work a hardship on the applicant and that sufficient cause exists, the board may extend the application beyond the one-year withdrawal date for a period of time not exceeding an additional six months.
- b. The board's denial of an application to extend the withdrawal date is subject to supreme court review upon the applicant's request.
- [Court Order June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 102); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; September 17, 2008; October 15, 2015; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; October 24, 2019, effective January 1, 2020; December 18, 2020, effective January 1, 2021]

Rule 31.5 Bar examination application; contents and deadlines.

- **31.5(1)** The board of law examiners and the director will designate such forms as may be necessary for application for examination. The application must require the applicant to demonstrate the applicant is a person of honesty, integrity, and trustworthiness, and one who appreciates and will adhere to the Iowa Rules of Professional Conduct as adopted by the supreme court, together with such other information as the board and the director determine to be necessary and proper.
- 31.5(2) Every applicant for admission to the bar must make application, under oath, and upon a form designated by the director. The applicant must file the application with the director no later than April 1 preceding the July examination or November 1 preceding the February examination. An applicant who fails the Iowa bar examination and wants to take the next examination must file a new application within the above deadlines or within 30 days of the date the applicant's score is posted in the office of professional regulation, whichever is later. There will be no waiver of these deadlines. If any changes occur after the application is filed that affect the applicant's answers, the applicant must amend the application. A new and complete application must be filed for each examination for admission.

31.5(3) The board may designate portions of the data submitted for this purpose by the applicant or third parties as a confidential record. The board and the director must segregate that portion of the application data deemed confidential from the portion that is filed as a public record. In the event of a request for a hearing on character or fitness under rule 31.9(2) following an initial determination by the board, it may designate any additional information received at the hearing and all proceedings before the board as a confidential record.

[Court Order October 14, 1968; July 2, 1975; November 21, 1977; March 20, 1987, effective June 1, 1987; February 16, 1990, effective March 15, 1990; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 103); November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 20, 2007, effective July 1, 2007; June 5, 2008, effective July 1, 2008; September 17, 2008; December 10, 2012; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 18, 2020, effective January 1, 2021; September 14, 2021, effective October 1, 2021]

Rule 31.6 Fee.

- **31.6(1)** Payment of application fee. Every applicant for admission to the bar upon examination must, as a part of the application, pay to the Iowa board of law examiners an application fee. This fee is not refundable and cannot be applied to a subsequent application. The full fee must be paid within the deadline for filing the bar application under rule 31.5(2). The applicant must pay the applicable fee charged by any electronic application vendor.
- **31.6(2)** First Iowa bar exam application. The fee is \$800 for every applicant submitting his or her first application to take the Iowa bar examination.
- **31.6(3)** Subsequent Iowa bar exam applications. The following fees are applicable for those submitting a second or subsequent application to take the Iowa bar examination. For applicants not previously admitted to practice law in any other state, the District of Columbia, or a territory of the United States, the fee is \$550. For applicants previously admitted to practice law in another state, the District of Columbia, or a territory of the United States, the fee is \$800.

[Court Order July 2, 1975; December 16, 1983—received for publication May 30, 1984; April 16, 1992, effective July 1, 1992; March 26, 1993, effective July 1, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 113); October 11, 2001; November 9, 2001, effective February 15, 2002; August 21, 2013; October 15, 2015; September 14, 2017, effective November 2, 2017; October 24, 2019, effective January 1, 2020; December 18, 2020, effective January 1, 2021]

Rule 31.7 Affidavit of intent to practice.

- **31.7(1)** All applicants for the Iowa bar examination must demonstrate a bona fide intention to practice law in Iowa or another UBE jurisdiction. This showing must be by affidavit made before an officer authorized to administer oaths and having a seal.
- 31.7(2) The affidavit must include the applicant's designation of the clerk of the supreme court as the applicant's agent for service of process in Iowa for all purposes.

[Court Order July 2, 1975; November 21, 1977; October 28, 1982; December 30, 1983; April 25, 1985; March 23, 1994, effective July 1, 1994; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 105); November 9, 2001, effective February 15, 2002; October 15, 2015]

Rule 31.8 Degree requirement.

- **31.8(1)** No person will be permitted to take the examination for admission without proof that the person has received the degree of LL.B. or J.D. from a reputable law school fully or provisionally approved by the American Bar Association at the time the applicant graduated from the school. Proof of this requirement must be by affidavit of the dean of such law school, and must show that the applicant has actually and in good faith pursued the study of law resulting in the degree required by this rule. The affidavit must be made before an officer authorized to administer oaths and having a seal.
- **31.8(2)** If an applicant is a student in such a law school and expects to receive the degree of LL.B. or J.D. within 45 days from the first day of the July or February examination, the applicant may be permitted to take the examination upon the filing of an affidavit by the dean of said school stating that the dean expects the applicant to receive such a degree within this time. No certificate of admission or license to practice law can be issued until the applicant has received the required degree. If the

applicant fails to obtain the degree within the 45-day period, the results of the applicant's examination will be null and void.

[Court Order July 15, 1963; February 9, 1967; December 30, 1971; February 15, 1973; July 2, 1975; November 21, 1977; June 13, 1983; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 106); May 2, 1997; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

Rule 31.9 Moral character and fitness.

- **31.9(1)** The Iowa board of law examiners may make an investigation of the moral character and fitness of any applicant and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report.
- a. Immediately upon the filing of the application, the chair of the Iowa board of law examiners must notify the president of a local bar association and the county attorney of the county in which the applicant resides of the filing of the application. If either of said officers is possessed of information that reflects adversely on the moral character or fitness of the applicant, such information must be transmitted to the chair of the board of law examiners not less than 60 days in advance of the holding of the examination.
- b. The Iowa board of law examiners will, subject to supreme court review, determine whether or not the applicant is of good moral character and fitness. In making its determination, the board may consider the applicant's candor in the application process and in any interactions with the board or its staff.
- **31.9(2)** Denial of permission to take bar examination; denial of recommendation for admission. When the board of law examiners determines that any person who registers or makes application should not be permitted to take a bar examination, or that an applicant who has passed a bar examination should not be recommended for admission to practice law in Iowa, the board must notify the applicant in writing of its determination.
- a. The notice must provide that the applicant is entitled to a hearing to challenge the determination upon filing a written request for hearing with the director within 10 days after service of the notice.
- b. The director must serve the notice on the applicant by mail to the address shown on the applicant's application.
 - c. If no request for hearing is filed, the board's determination will be final and not subject to review.
- d. If a request for hearing is filed, the chair of the board must appoint an attorney member of the board to act as a hearing officer. The hearing officer must promptly set a hearing, and the director must notify the applicant by mail at least 10 days before the hearing date of the time and place of hearing.
- e. Not less than 10 days before the hearing date, the board must furnish the applicant with copies of all documents and summaries of all other information the board relied on in making its determination.
- f. The clerk of court in the county where the hearing is held has authority to issue any necessary subpoenas for the hearing.
- g. At the hearing, the applicant has the right to appear in person and by counsel. The board may be represented by the attorney general of the State of Iowa or a duly appointed assistant attorney general. The hearing must be reported. The hearing officer may take judicial notice of the information the board considered in the case and may consider such additional evidence and arguments as may be presented at the hearing. At the hearing, the board may first present any additional evidence or information that it deems necessary to the proceeding. Thereafter the applicant may present evidence. The attorney for the board may offer rebuttal evidence at the discretion of the hearing officer. In presiding at the hearing, the hearing officer will have the power and authority administrative hearing officers possess generally.
- h. Within 30 days after completion of the hearing, the hearing officer must provide the board with a hearing transcript, exhibits, and findings of fact and conclusions of law. Based on this information, the board will prepare and file its final determination with the director. The director must, by mail, promptly notify the applicant of the board's final determination.
- 31.9(3) Supreme court review. Any applicant aggrieved by a final determination of the board made pursuant to rule 31.9(2) may file a petition requesting review of the determination in the supreme court within 20 days of the mailing of notice of final determination. The petition must be accompanied by a \$150 fee. If no such petition is filed within the 20-day period, the board's determination is not subject to review. A petition for review must state all claims of error and reasons for challenging the board's determination. The board must transmit to the supreme court its files and the complete record in the

- case. Unless the court orders otherwise, the petition is deemed submitted for the court's review on the record previously made. After consideration of the record, the court may enter its order sustaining or denying the petition. The order of the court will be conclusive. No subsequent application for admission by a person denied under rule 31.9(2) will be considered by the board unless authorized by the court upon the applicant's motion accompanied by a prima facie showing of a substantial change of circumstances.
- **31.9(4)** Costs of review. In the event an applicant or person who is registered petitions for review under rule 31.9(3) and is unsuccessful, the costs of the review will be taxed against the unsuccessful applicant and judgment therefor may be entered in the district court of that person's county of residence, if an Iowa resident, or in the district court for Polk County if a nonresident.
- **31.9(5)** Failure to comply with support order. The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who fails to comply with a support order.
- a. Procedure. The Child Support Recovery Unit (CSRU) may file any certificate of noncompliance that involves an applicant with the office of professional regulation. The procedure, including notice to the applicant, will be governed by Iowa Court Rule 34.20(1), except that the notice must refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.
- b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of district court must schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing will be governed by Iowa Court Rule 34.20(2).
- c. Noncompliance certificate withdrawn. If a withdrawal of a certificate of noncompliance is filed, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, may immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.
- d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify applicants subject to enforcement under Iowa Code chapter 252J or 598.
- **31.9(6)** The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission.
- a. Procedure. The Iowa College Student Aid Commission may file any certificate of noncompliance that involves an applicant with the office of professional regulation. The procedure, including notice to the applicant, will be governed by Iowa Court Rule 34.21(1), except that the notice must refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.
- b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of district court must schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing will be governed by Iowa Court Rule 34.21(2).
- c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court may curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, may immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the court.
- d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.
- **31.9(7)** The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU).
- a. Procedure. The CCU may file any certificate of noncompliance that involves an applicant with the office of professional regulation. The procedure, including notice to the applicant, will be governed by Iowa Court Rule 34.22(1), except that the notice must refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

- b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of the district court must schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing will be governed by Iowa Court Rule 34.22(2).
- c. Noncompliance certificate withdrawn. If a withdrawal of a certificate of noncompliance is filed, the supreme court may curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, may immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.
- d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with the CCU for the sole purpose of allowing the CCU to identify applicants subject to enforcement under Iowa Code chapter 272D.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 104); December 20, 1996; November 25, 1998; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; June 5, 2008, effective July 1, 2008; February 20, 2012; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 31.10 Preservation of anonymity. Each applicant permitted to take the bar examination will be randomly assigned a number prior to the examination, by which number the applicant will be known throughout the examination and grading process.

[Court Order July 2, 1975; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 107); November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

Rule 31.11 Supreme court review.

- **31.11(1)** Extraordinary circumstances. An unsuccessful applicant whose combined, scaled score on the bar examination is at least 260, but less than 266, may file a petition in the supreme court requesting review of the board's determination. However, the board's decision regarding an applicant's score is final and will not be reviewed by the court absent extraordinary circumstances. "Extraordinary circumstances" would include issues such as the board's refusal to correct a clear mathematical error, but would not include a claim that the board erred in the grade assigned to a particular answer.
- **31.11(2)** Petition for review. The petition must be filed with the clerk of the supreme court and served upon the board. The petition must be filed within 20 days of the date the applicant's score is posted in the office of professional regulation and must be accompanied by a \$150 fee. The petition must identify in detail the extraordinary circumstances requiring supreme court review of the board's determination. If a petition is not filed within the 20-day period, the board's determination is not subject to review.
- **31.11(3)** Supreme court order. Upon request of the court, the board will transmit to the supreme court the complete record in the case. All documents submitted for the court's review, other than the applicant's petition, are confidential. Unless the court orders otherwise, the court will review the petition on the record previously made. After consideration of the record, the court will enter its order sustaining or denying the petition. The order of the court is conclusive.
- [Court Order July 2, 1975; September 20, 1976; April 25, 1985; March 31, 1986, effective May 1, 1986; April 17, 1990, effective June 1, 1990; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 117.1) July 19, 1999; November 9, 2001, effective February 15, 2002; June 20, 2007, effective July 1, 2007; June 5, 2008, effective July 1, 2008; February 20, 2012; July 13, 2012; October 15, 2015; November 16, 2018, effective December 15, 2018]

Rule 31.12 Admission of attorneys from other jurisdictions; requirements and fees.

- **31.12(1)** An applicant who meets the requirements of this rule and rule 31.13 may, in the discretion of the court, be admitted to the practice of law in this state without examination.
- **31.12(2)** The applicant must file the application with the National Conference of Bar Examiners through its online character and fitness application process unless an exception is granted by the office of professional regulation. The applicant must pay a nonrefundable administrative fee of \$900 to the office of professional regulation at the time of filing the application. The character investigation services of the National Conference of Bar Examiners must be procured in all cases where application for admission on motion is made. The applicant must pay the investigative fee required by the National Conference of Bar Examiners at the time of filing the application.

- **31.12(3)** The application and supporting documents must contain specific facts and details as opposed to conclusions and must demonstrate the following:
- a. The applicant has been admitted to the bar of any other state of the United States, the District of Columbia, or a territory of the United States; has regularly engaged in the practice of law for at least five of the last seven years immediately preceding the date of the application; and still holds a license. For the purposes of this rule, "regularly engaged in the practice of law" means the applicant has practiced law for at least 1000 hours in that year.
- b. The applicant is a person of honesty, integrity, and trustworthiness, and one who will adhere to the Iowa Rules of Professional Conduct. In evaluating this factor the court may consider any findings filed with the office of professional regulation by the Commission on the Unauthorized Practice of Law pursuant to Iowa Court Rule 37.3.
 - c. The applicant is not currently subject to lawyer discipline in any other jurisdiction.
- **31.12(4)** The applicant must provide such information as the court deems necessary and proper in connection with the application. If any changes occur that affect the applicant's answers, the applicant must immediately amend the application.
 - **31.12(5)** The applicant must designate the supreme court clerk for service of process.
 - 31.12(6) For purposes of this rule, the practice of law includes the following activities:
 - a. Representation of one or more clients in the practice of law.
 - b. Service as a lawyer with a local, state, or federal agency.
- c. The teaching of law as a full-time instructor in a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association in this state or some other state.
- d. The discharge of actual legal duties as a member of one of the armed services of the United States, if certified as the practice of law by the judge advocate general of such service.
 - e. Service as a judge in a federal, state, or local court of record.
 - f. Service as a judicial law clerk.
 - g. Service as corporate counsel.
- h. Service as an employee or officer of any business, but only if such service would ordinarily constitute the practice of law and was performed in a jurisdiction in which the applicant has been admitted to practice.
- 31.12(7) For purposes of this rule, the practice of law does not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located.
 - **31.12(8)** The following applicants are not eligible for admission on motion:
- a. An applicant who has failed a bar examination administered in this state within five years of the date of filing of the application under this rule.
 - b. An applicant who has failed five or more bar examinations.
- c. An applicant whose Iowa license is in exempt or inactive status under the provisions of Iowa Court Rule 39.7 or 41.7.
- d. An applicant who has been disbarred and not reinstated or whose license is currently suspended in any other jurisdiction.
- **31.12(9)** An application for admission without examination that has not been granted will be deemed administratively withdrawn one year from the date the application was filed with the office of professional regulation. Before the one-year withdrawal date, an applicant may request an extension. If the court finds that administrative withdrawal of the application would work a hardship on the applicant and that sufficient cause exists, the court may extend the application beyond the one-year withdrawal date for a period of time not exceeding an additional six months.

[Court Order July 2, 1975; September 20, 1976; February 12, 1981; Note September 30, 1981; Court Order December 17, 1982; December 30, 1983; April 23, 1985; November 8, 1985; March 31, 1986, effective May 1, 1986; November 21, 1991, effective January 2, 1992; November 30, 1994, effective January 3, 1995; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 114); May 2, 1997; October 11, 2001; November 9, 2001, effective February 15, 2002; February 22, 2002; April 20, 2005, effective July 1, 2005; August 6, 2007; February 14, 2008, effective April 1, 2008; October 15, 2008; August 10, 2009; January 19, 2010; July 13, 2012; December 10, 2012; August 21, 2013; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; October 24, 2019, effective January 1, 2020]

Rule 31.13 Proofs of qualifications; oath or affirmation.

- **31.13(1)** *Required certificates.* To qualify for admission under rule 31.12, an applicant must file the following with the office of professional regulation:
 - a. A certificate of admission in the applicant's state of licensure.
- b. A certificate from one or more of the following individuals establishing that the applicant was regularly engaged in the practice of law in the applicant's state or states of licensure for at least five of the last seven years immediately preceding the date of the application: a clerk or judge of a court of record, a judge advocate general, or an administrative law judge. If, due to the nature of the applicant's practice, the applicant cannot obtain a certificate from a clerk, judge, judge advocate general, or an administrative law judge, the applicant must file a petition seeking leave to file an alternative certificate demonstrating good cause why the certificate cannot be obtained. If the supreme court grants the petition, the applicant must file an affidavit detailing the nature, dates, and locations of the applicant's practice, along with an affidavit of a supervising attorney or another lawyer attesting to the applicant's practice over that period.

31.13(2) Oath or affirmation.

- a. An applicant whose application for admission without examination is granted must appear for admission before a supreme court justice, unless the supreme court orders otherwise based upon a satisfactory showing of exceptional circumstances.
- b. An applicant may file a petition seeking permission to be administered the lawyer's oath or affirmation in the jurisdiction in which the applicant is currently licensed or before a judge advocate general if the applicant is currently a member of one of the armed services of the United States. The petition must set forth in detail: the exceptional circumstances that render the applicant unable to appear for admission before a justice of the supreme court of Iowa; the name, title, business address, and telephone number of the justice, judge, clerk of court, court administrator, or the judge advocate general who will administer the lawyer's oath or affirmation; and the statute or court rule authorizing that person to administer an oath or affirmation.
- c. If the supreme court grants the petition, the office of professional regulation will forward all required documents to the applicant. The applicant will be deemed admitted to the Iowa bar on the date the completed documents are filed with the office of professional regulation.
- d. The applicant must take the lawyer's oath or affirmation from an Iowa justice, or file the completed paperwork from an out-of-state oath or affirmation, within six months after the date the application for admission on motion is granted or the application will be deemed to be denied. [Court Order July 2, 1975; December 30, 1982; December 30, 1983; April 23, 1985; November 8, 1985; January 17, 1995, effective March 1, 1995; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 115); November 9, 2001, effective February 15, 2002; May 31, 2006; October 31, 2006; February 14, 2008, effective April 1, 2008; October 15, 2008; January 19, 2010; December 10, 2012; October 15, 2015; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; October 24, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021]

Rule 31.14 Admission pro hac vice before Iowa courts and administrative agencies.

31.14(1) *Definitions.*

- a. An "out-of-state" lawyer is a person who:
- (1) Is not admitted to practice law in this state but who is admitted in another state or territory of the United States or of the District of Columbia, or is licensed to practice as a foreign legal consultant in any state or territory of the United States or of the District of Columbia.
 - (2) Is not disbarred or suspended from practice in any jurisdiction.
- b. An out-of-state lawyer is "eligible" for admission pro hac vice if any of the following conditions are satisfied:
- (1) The lawyer lawfully practices solely on behalf of the lawyer's employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work.
 - (2) The lawyer neither resides nor is regularly employed at an office in this state.
- (3) The lawyer resides in this state but (i) lawfully practices from offices in one or more other states and (ii) practices no more than temporarily in this state, whether pursuant to admission pro hac vice or in other lawful ways.
- c. An "in-state" lawyer is a person admitted to practice law in this state and is not disbarred or suspended from practice in this state.
- d. A "client" is a person or entity for whom the out-of-state lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer's performance of services in this state.

- e. "This state" refers to Iowa. This rule does not govern proceedings before a federal court or federal agency located in this state unless that body adopts or incorporates this rule.
 - **31.14(2)** Authority of court or agency to permit appearance by out-of-state lawyer.
- a. Court proceeding. A court of this state may, in its discretion, admit an eligible out-of-state lawyer, who is retained to appear as attorney of record in a particular proceeding, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.
- b. Administrative agency proceeding. Regardless of whether practice before an agency is limited to lawyers, an out-of-state lawyer must apply for admission pro hac vice to appear as attorney of record in an agency proceeding. The agency may, using the same standards and procedures as a court, admit an eligible out-of-state lawyer who has been retained to appear in a particular agency proceeding as counsel in that proceeding pro hac vice, only if the out-of-state lawyer appears with an in-state lawyer in that proceeding.
- c. Subsequent proceedings. Admission pro hac vice is limited to the particular court or agency proceeding for which admission was granted. An out-of-state lawyer must separately seek admission pro hac vice in any subsequent district or appellate court proceeding.
- **31.14(3)** *In-state lawyer's duties.* When an out-of-state lawyer appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the in-state lawyer, or in an advisory or consultative role, the in-state lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the in-state lawyer to do all of the following:
 - a. Appear of record together with the out-of-state lawyer in the proceeding.
 - b. Actively participate in the proceeding. See Iowa R. of Prof'l Conduct 32:5.5(c)(1).
 - c. Accept service on behalf of the out-of-state lawyer as required by Iowa Code section 602.10111.
- d. Advise the client of the in-state lawyer's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the out-of-state lawyer.
- **31.14(4)** Application procedure. An eligible out-of-state lawyer seeking to appear in a proceeding pending in this state as counsel pro hac vice must file a verified application with the court or agency where the litigation is filed. The out-of-state lawyer must serve the application on all parties who have appeared in the proceeding, and must include proof of service. Application forms for admission pro hac vice can be found in rule 31.25.
- **31.14(5)** Required information for application. An application filed by the out-of-state lawyer must contain all of the following information:
 - a. The out-of-state lawyer's residence and business addresses.
 - b. The name, address, and phone number of each client sought to be represented.
- c. The courts before which the out-of-state lawyer has been admitted to practice and the respective period of admission and any jurisdiction in which the out-of-state lawyer has been licensed to practice as a foreign legal consultant and the respective period of licensure.
- d. Whether the out-of-state lawyer has been denied admission pro hac vice in this state. If so, specify the caption of the proceedings, the date of the denial, and what findings were made.
- e. Whether the out-of-state lawyer has had admission pro hac vice revoked in this state. If so, specify the caption of the proceedings, the date of the revocation, and what findings were made.
- f. Whether the out-of-state lawyer has been denied admission in any jurisdiction for reasons other than failure of a bar examination. If so, specify the jurisdiction, caption of the proceedings, the date of the denial, and what findings were made.
- g. Whether the out-of-state lawyer has been formally disciplined or sanctioned by any court in this state. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.
- h. Whether the out-of-state lawyer has been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the out-of-state lawyer engaged in the unauthorized practice of law in this state or elsewhere. If so, specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings.
- *i.* Whether any formal, written disciplinary proceeding has been brought against the out-of-state lawyer by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years, and as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally

concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings.

- *j.* Whether the out-of-state lawyer has been placed on probation by a disciplinary authority in any other jurisdiction. If so, specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made.
- k. Whether the out-of-state lawyer has been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders, and, if so: the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. A copy of the written order or transcript of the oral rulings must be attached to the application.
- *l.* The name and address of each court or agency and a full identification of each proceeding in which the out-of-state lawyer has filed an application to appear pro hac vice in this state within the preceding two years, the date of each application, and the outcome of the application.
- m. An averment as to the out-of-state lawyer's familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court or agency before which the out-of-state lawyer seeks to practice.
- n. The name, address, telephone number, and personal identification number of an in-state lawyer in good standing of the bar of this state who will sponsor the out-of-state lawyer's pro hac vice request.
- o. An acknowledgement that service upon the in-state lawyer in all matters connected with the proceedings has the same effect as if personally made upon the out-of-state lawyer.
- p. If the out-of-state lawyer has appeared pro hac vice in this state in five proceedings within the preceding two years, the application must contain a statement showing good cause why the out-of-state attorney should be admitted in the present proceeding.
- q. Any other information the out-of-state lawyer deems necessary to support the application for admission pro hac vice.
- r. A statement that the out-of-state lawyer has registered with the office of professional regulation and paid the fee as required by rule 31.14(11).
- **31.14(6)** Objection to application. A party to the proceeding may file an objection to the application or seek the court's or agency's imposition of conditions to its being granted. The objecting party must file with its objection a verified affidavit containing or describing information establishing a factual basis for the objection. The objecting party may seek denial of the application or modification of it. If the application has already been granted, the objecting party may move that the pro hac vice admission be revoked.
- **31.14(7)** Standard for admission. The courts and agencies of this state have discretion as to whether to grant applications for admission pro hac vice. If there is no opposition, the court or agency has the discretion to grant or deny the application summarily. An application ordinarily should be granted unless the court or agency finds one of the following:
- a. The admission of the out-of-state attorney pro hac vice may be detrimental to the prompt, fair, and efficient administration of justice.
- b. The admission of the out-of-state attorney pro hac vice may be detrimental to legitimate interests of parties to the proceedings other than a client the out-of-state lawyer proposes to represent.
- c. One or more of the clients the out-of-state lawyer proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk.
- d. The out-of-state lawyer has appeared pro hac vice in this state in five proceedings within the preceding two years, unless the out-of-state lawyer can show good cause exists for admission.
- **31.14(8)** Revocation of admission. Admission to appear as counsel pro hac vice in a proceeding may be revoked for any of the reasons listed in rule 31.14(7).
 - **31.14(9)** Discipline, contempt, and sanction authority over the out-of-state lawyer.
- a. During the pendency of an application for admission pro hac vice and upon the granting of such application, an out-of-state lawyer submits to the authority of the courts of this state, the agencies of this state, and the Iowa Supreme Court Attorney Disciplinary Board for all conduct relating in any way to the proceeding in which the out-of-state lawyer seeks to appear. The out-of-state lawyer submits to these authorities for all of the lawyer's conduct (i) within the state while the proceeding is pending or (ii) arising out of or relating to the application or the proceeding. An out-of-state lawyer who has pro hac vice authority for a proceeding may be disciplined in the same manner as an in-state lawyer. See Iowa R. Prof'l Conduct 32:8.5.

- b. The authority to which an out-of-state lawyer submits includes, but is not limited to, the enforcement of the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, contempt and sanction procedures, applicable local rules, and court, agency, and board policies and procedures.
- c. An out-of-state lawyer who appears before a court of this state or before an agency of this state when practice is limited to lawyers and who does not obtain admission pro hac vice is engaged in the unauthorized practice of law. See Iowa R. Prof'l Conduct 32:5.5 cmt. 9. If an out-of-state lawyer reasonably expects to be admitted pro hac vice, the lawyer may provide legal services that are in or reasonably related to a pending or potential proceeding before a court or agency in this state. See Iowa R. Prof'l Conduct 32:5.5(c)(2).
- **31.14(10)** Familiarity with rules. An out-of-state lawyer must become familiar with the rules of professional conduct, the rules of procedure of the Iowa Supreme Court Attorney Disciplinary Board, the standards for professional conduct, local court or agency rules, and the policies and procedures of the court or agency before which the out-of-state lawyer seeks to practice.
- **31.14(11)** *Periodic fee.* An applicant for admission to appear pro hac vice in any Iowa Court or before any Iowa agency must first register with the office of professional regulation and pay a fee of \$250 to the client security trust fund. The office of professional regulation may prescribe an electronic format for the registration and require submission of the registration and payment in that form.
- a. Registration and payment of the fee required by this rule qualify the out-of-state lawyer to file applications for admission pro hac vice in any Iowa court or before any Iowa agency for a period of five years commencing with the date of registration. Upon expiration of the five-year period, the out-of-state lawyer becomes ineligible to file an application for admission pro hac vice in any Iowa court or before any Iowa agency without first registering and paying another fee as required by this rule.
- b. An out-of-state lawyer admitted pro hac vice after registration and payment of the fee as required by this rule who later is fully admitted to the bar of Iowa must pay initial, special, and regular assessments to the client security trust fund as required by Iowa Court Rule 39.6. [Court Order July 2, 1975; June 22, 1976; December 2, 1993; June 5, 1996, effective July 1, 1996; (Prior to July 1, 1996, Court Rule 116); April 1, 1999; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; September 27, 2006; March 15, 2007; June 3, 2009; February 19, 2016, effective January 1, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]

Rule 31.15 Permitted practice by law students and recent graduates.

- **31.15(1)** Law students enrolled in a reputable law school as defined by rule 31.8 and Iowa Code section 602.10102 and certified to the office of professional regulation by the dean of the school to have completed satisfactorily not less than the equivalent of three semesters of the work required by the school to qualify for the J.D. or LL.B. degree, may, under the following conditions, engage in the practice of law or appear as counsel in the trial or appellate courts of this state:
- a. Appearance by students as defense counsel in a criminal matter in any trial court must be confined to misdemeanors, and the student must be under the direct supervision of licensed Iowa counsel who must be personally present.
- b. Appearance by students in matters before the Iowa Supreme Court or the Iowa Court of Appeals must be under the direct supervision of licensed Iowa counsel who must be personally present. A student presenting an oral argument before the supreme court or the court of appeals must file with the clerk of the supreme court an appearance with proof of compliance with rule 31.15(1). The appearance must be filed no less than seven days prior to the argument and must be served upon all counsel of record and parties not represented by counsel.
- c. Appearance or assistance by students in other matters must be under the general supervision of licensed Iowa counsel, but such counsel need not be personally present in court unless required by order of the court.
- **31.15(2)** Students who the dean of a reputable law school certifies have completed not less than the equivalent of two semesters of work required to qualify for the J.D. or LL.B. degree may appear in a representative capacity in a contested case proceeding before an administrative agency.
- a. Appearance by students who have completed only two semesters of work must be under the direct supervision of licensed Iowa counsel who must be personally present.

- b. Students who have completed at least three semesters may appear in a representative capacity in a contested case proceeding before an administrative agency under the general supervision of licensed Iowa counsel, but such counsel need not be personally present unless required by order of the tribunal.
- **31.15(3)** Except as allowed by rule 31.15(4), students may not engage in the practice of law or appear as counsel in any court of this state or before an administrative agency unless such practice or appearance is part of an educational program approved by the faculty of the students' law school and not disapproved by the Iowa Supreme Court, and such program is supervised by at least one member of the law school's faculty. Students may continue to practice before courts or administrative agencies of this state after completion of an educational program so long as the placement is substantially the same as it was during the educational program, approved by the law school, and performed with the supervision required under rules 31.15(1) and 31.15(2).
- **31.15(4)** Law students may assist licensed Iowa counsel to the same extent as a non-attorney without being part of an educational program or being certified to the office of professional regulation, but the students must be under the general supervision of licensed Iowa counsel who need not be personally present. Law students may not appear in representative capacities in contested case proceedings before administrative agencies without complying with rules 31.15(2) and 31.15(3), or before trial or appellate courts without complying with rule 31.15(1).
- **31.15(5)** Law students must not receive compensation other than general compensation from an employer-attorney or from a law-school-administered fund.
- **31.15(6)** Graduates of reputable law schools who have applied to take the Iowa bar examination are authorized to perform all activities described in this rule on behalf of the public defender's office, the attorney general's office, county attorney offices, or approved legal aid organizations under the following conditions:
- a. Supervision of graduates must be the same as supervision of law students under rules 31.15(1) and 31.15(2), but graduates do not need to meet the requirements of rule 31.15(3).
- b. Graduates may perform under this rule beginning with the receipt of a law school dean's certification of graduation and terminating either upon the withdrawal or denial of their application to take the Iowa bar examination, their failure of the next administration of the Iowa bar examination, or upon the date of the admissions ceremony for those who pass that examination.
- c. Graduates may practice up to 25 hours per week from receipt of a J.D. or LL.B. degree until the administration of the next Iowa bar examination.
- d. Graduates are not limited in hours of practice under this rule from administration of the bar examination until the date the bar examination results are posted for those who fail or the date of the admissions ceremony for those who pass.
- e. Graduates who have failed any state bar examination in the past are not eligible to practice under this provision.
- f. The supervising organizations listed in rule 31.15(6) must file a certificate with the office of professional regulation listing the starting dates for all graduates practicing under rule 31.15(6) and must file a second certificate indicating when the practice under this rule has terminated.
- **31.15(7)** For purposes of this rule, an "approved legal aid organization" includes a program sponsored by a bar association, law school, or a not-for-profit legal aid organization, approved by the Iowa Supreme Court, whose primary purpose is to provide legal representation to low-income persons in Iowa.
- a. A legal aid organization seeking approval from the court for the purposes of this rule must file a petition with the office of professional regulation certifying that it is a not-for-profit organization and reciting with specificity the following:
 - (1) The structure of the organization and whether it accepts funds from its clients.
 - (2) The major sources of funds the organization uses.
- (3) The criteria used to determine potential clients' eligibility for legal services the organization performs.
 - (4) The types of legal and nonlegal services the organization performs.
- (5) The names of all members of the Iowa bar who are employed by the organization or who regularly perform legal work for the organization.
 - (6) The existence and extent of malpractice insurance that will cover the law student or graduate.
- b. An organization designated as an approved legal aid organization under the provisions of rule 31.19(2)(c) is an approved legal aid organization for purposes of this rule.

31.15(8) A law student or law graduate practicing under this rule must be identified by the title "Law Student" or "Law Graduate" in any filing made in the courts of this state.

[Court Order April 4, 1967; May 15, 1972; January 14, 1974; April 8, 1975 [withdrawn]; April 9, 1975; April 8, 1980; April 28, 1987; June 5, 1996, effective July 1, 1996 (Prior to July 1, 1996, Court Rule 120); January 9, 1998, effective February 2, 1998; November 9, 2001, effective February 15, 2002; June 4, 2008, effective July 1, 2008; March 21, 2014; November 20, 2015, effective January 1, 2016; November 18, 2016, effective March 1, 2017; December 13, 2017, effective January 1, 2018]

Rule 31.16 Registration of house counsel.

- **31.16(1)** Who must register. A lawyer who is not admitted to practice law in Iowa, but who is admitted to practice law in another United States jurisdiction or is a foreign lawyer, and who has a continuous presence in this jurisdiction and is employed as a lawyer by an organization as permitted pursuant to rule 32:5.5(d)(1) of the Iowa Rules of Professional Conduct, the business of which is lawful and consists of activities other than the practice of law or the provision of legal services, must register as house counsel within 90 days of the commencement of employment as a lawyer or, if currently so employed, then within 90 days of the effective date of this rule. For purposes of rule 31.16:
- a. "United States jurisdiction" includes the District of Columbia and any state, territory, or commonwealth of the United States.
- b. A "domestic lawyer" is a lawyer admitted to practice law in the District of Columbia or in any state, territory, or commonwealth of the United States.
 - c. A "foreign jurisdiction" is any jurisdiction that is not a United States jurisdiction.
- d. A "foreign lawyer" is a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority.
- **31.16(2)** *Procedure for registering.* The lawyer must submit to the office of professional regulation the following:
- a. If a domestic lawyer, a completed application in the form the office of professional regulation prescribes.
- b. If a foreign lawyer, a foreign-licensed attorney application with the National Conference of Bar Examiners through its online character and fitness application process. The applicant must pay the investigative fee that the National Conference of Bar Examiners requires at the time of filing the application.
- c. A nonrefundable application fee in the amount of \$800 payable to the Iowa board of law examiners.
- d. Documents proving admission to practice law, current active status, and current good standing in all jurisdictions, United States and foreign, in which the lawyer is admitted to practice law.
- e. A certificate from the disciplinary authority of each jurisdiction of admission, United States and foreign, stating that the lawyer has not been suspended, disbarred, or disciplined and that no charges of professional misconduct are pending; or a certificate that identifies any suspensions, disbarments, or other disciplinary sanctions that have been imposed upon the lawyer, and any pending charges, complaints, or grievances.
- f. If the jurisdiction is foreign and the documents are not in English, the lawyer must submit an English translation and satisfactory proof of the accuracy of the translation.
- g. An affidavit from an officer, director, or general counsel of the employing entity attesting as follows:
 - (1) The entity will be employing the lawyer.
- (2) To the best of its knowledge the lawyer has been lawfully admitted to practice and is a lawyer in good standing in another United States or foreign jurisdiction.
- (3) To the best of its knowledge the lawyer has not been disbarred or suspended from practice in any jurisdiction, United States or foreign, and has never been convicted of a felony.
- (4) While serving as counsel, the lawyer will perform legal services solely for the corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates.
- (5) While serving as counsel, the lawyer will not provide personal legal services to the entity's officers or employees, except regarding matters directly related to their work for the entity and only

to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct. Foreign lawyers may not provide any legal services to the entity's officers or employees.

- (6) The corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services.
- (7) The entity will promptly notify the Client Security Commission of the termination of the lawyer's employment.
 - h. An affidavit from the lawyer attesting as follows:
 - (1) The name of the entity that will be employing the lawyer.
- (2) The lawyer has been lawfully admitted to practice and is a lawyer in good standing in another United States or foreign jurisdiction.
- (3) The lawyer has not been disbarred or suspended from practice in any jurisdiction, United States or foreign, and has never been convicted of a felony.
- (4) While serving as counsel, the lawyer will perform legal services solely for the corporation, association, or other business, educational, or governmental entity, including its subsidiaries and affiliates.
- (5) While serving as counsel, the lawyer will not provide personal legal services to the entity's officers or employees, except regarding matters directly related to the lawyer's work for the entity and to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct. Foreign lawyers may not provide any legal services to the entity's officers or employees.
- (6) The corporation, association, or other business, educational, or governmental entity is not engaged in the practice of law or provision of legal services.
- (7) The lawyer will promptly notify the Client Security Commission of the termination of the lawyer's employment.
 - i. Any other document the supreme court requires to be submitted.
 - **31.16(3)** *Scope of authority of registered lawyer.*
- a. A lawyer registered under this rule has the rights and privileges otherwise applicable to members of the bar of this state with the following restrictions:
- (1) The registered lawyer is authorized to provide legal services to the entity client or its organizational affiliates, including entities that control, are controlled by, or are under common control with the employer, and, except for foreign lawyers, to employees, officers, and directors of such entities, but only on matters directly related to their work for the entity and only to the extent consistent with rule 32:1.7 of the Iowa Rules of Professional Conduct.
 - (2) The registered lawyer may not:
- 1. Except as otherwise permitted by the rules of this state, appear before a court or any other tribunal as defined in rule 32:1.0(m) of the Iowa Rules of Professional Conduct. Registration under this rule does not authorize a lawyer to provide services to the employing entity for which pro hac vice admission is required. A lawyer registered under this rule must therefore comply with the requirements for pro hac vice admission under rule 31.14 for any appearances before a court or any administrative agency.
- 2. Offer or provide legal services or advice to any person other than as described in rule 31.16(3)(a)(1), or hold himself or herself out as being authorized to practice law in this state other than as described in rule 31.16(3)(a)(1).
- 3. If a foreign lawyer, provide advice on the law of this state or another United States jurisdiction or of the United States except on the basis of advice from a lawyer who is duly licensed and authorized to provide such advice.
- b. Notwithstanding the provisions of rule 31.16(3)(a), a lawyer registered under this rule is authorized to provide pro bono legal services through an established not-for-profit bar association, pro bono program or legal services program, or through such organization(s) specifically authorized in this state. This provision does not apply to foreign lawyers registered under this rule.
 - c. A lawyer registered under this rule must:
- (1) File an annual statement and pay the annual disciplinary fee as Iowa Court Rules 39.5 and 39.8 require. Beginning calendar year 2021, the lawyer must pay the regular assessment as required by Iowa Court Rule 39.6(2) as well as any special assessments required by Iowa Court Rule 39.6(4)(a).
- (2) Fulfill the continuing legal education attendance, reporting, and fee payment requirements set forth in Iowa Court Rules 41.3 and 41.4. However, a lawyer is not required to comply with the continuing legal education attendance requirements set forth in rule 41.3 for the calendar year in which the lawyer first registered as house counsel under this rule.

- (3) Report to the office of professional regulation within 90 days the following:
- 1. Termination of the lawyer's employment as described in rule 31.16(2)(h).
- 2. Whether or not public, any change in the lawyer's license status in another jurisdiction, United States or foreign.
- 3. Whether or not public, any disciplinary charge, finding, or sanction concerning the lawyer by any disciplinary authority, court, or other tribunal in any jurisdiction, United States or foreign.
- **31.16(4)** *Local discipline.* A registered lawyer under this section is subject to the Iowa Rules of Professional Conduct and all other laws and rules governing lawyers admitted to the active practice of law in this state. The Iowa Supreme Court Attorney Disciplinary Board has and will retain jurisdiction over the registered lawyer with respect to the conduct of the lawyer in this state or another jurisdiction to the same extent as it has over lawyers generally admitted in this jurisdiction.
- **31.16(5)** Automatic termination. A registered lawyer's rights and privileges under this rule automatically terminate when:
 - a. The lawyer's employment terminates;
- b. The lawyer is suspended or disbarred from practice in any jurisdiction, United States or foreign, or any court or agency before which the lawyer is admitted; or
 - c. The lawyer no longer maintains active status in at least one jurisdiction, United States or foreign.
- **31.16(6)** Reinstatement. A registered lawyer whose registration is terminated under rule 31.16(5)(a) may be reinstated within 180 days of termination upon submission to the office of professional regulation all of the following:
 - a. An application for reinstatement in a form the office of professional regulation prescribes.
 - b. A reinstatement fee in the amount of \$100.
- c. Affidavits from the current employing entity and the lawyer as prescribed in rules 31.16(2)(g) and (h).
 - d. Current versions of the documents and certificates required in rules 31.16(2)(d)-(f).
- **31.16(7)** Reapplication. Any lawyer seeking to register as house counsel who has previously been registered under this rule and who has not sought timely reinstatement under rule 31.16(6) must submit everything contained within rule 31.16(2) for each subsequent registration.
 - 31.16(8) Sanctions. A lawyer under this rule who fails to register will be:
 - a. Subject to professional discipline in this state.
 - b. Ineligible for admission on motion in this state.
- c. Referred by the office of professional regulation to the Iowa Supreme Court Attorney Disciplinary Board.
- d. Referred by the office of professional regulation to the disciplinary authority of the jurisdictions of licensure, United States or foreign.
- **31.16(9)** Court's discretion. The supreme court has the discretion to grant or deny an application or to revoke a registration. The court may procure the character investigation services of the National Conference of Bar Examiners, at the lawyer's expense, in any matter in which substantial questions regarding the lawyer's character or fitness to practice law are implicated. The character investigation services will be procured for all foreign lawyer applicants at the applicants' expense. The office of professional regulation must issue a certificate of registration upon the supreme court's approval of the application.
 - **31.16(10)** *Duration of registration—credit toward admission on motion.*
- a. Domestic lawyer. A domestic lawyer registered under this rule may remain in house counsel status subject to rule 31.16(5), withdrawal of the registration, or admission following successful completion of the Iowa bar examination, by transferred UBE score pursuant to rule 31.4, or without examination pursuant to rules 31.12 and 31.13. The period of time the lawyer practices law in Iowa under the registration provisions of this rule may be used to satisfy the duration-of-practice requirement under rule 31.12(3)(a).
- b. Foreign lawyer. A foreign lawyer registered under this rule may remain in house counsel status subject to rule 31.16(5), withdrawal of the registration, or admission following successful completion of the Iowa bar examination. The foreign lawyer is not eligible for admission on motion based on practice while registered in Iowa. The foreign lawyer may either remain as house counsel or may attempt to establish academic equivalency allowing the lawyer to sit for the Iowa bar examination. A foreign lawyer seeking to take the bar examination must:

- (1) Obtain a scaled score of at least 80 on the MPRE before seeking permission to take the bar examination. The MPRE score must be from an examination taken within three years immediately preceding the filing date of the application.
- (2) Provide an affidavit giving a detailed description of the lawyer's practice while registered as house counsel and an estimate of how many hours per year the lawyer engaged in the practice of law during that period.
- (3) Provide an affidavit from an officer, partner, director, or general counsel of the employing entity attesting that the foreign lawyer's affidavit is accurate and that the foreign lawyer possesses the character and fitness to practice law in Iowa.
- (4) Submit the lawyer's credentials to an ABA-approved law school in this state for a recommendation of what schedule of courses, if any, would render the applicant educationally qualified to sit for the examination. The foreign lawyer may then petition the court to approve the proposed course of study. If the court approves the petition, the foreign lawyer must attach to the bar application a copy of the law school dean's affidavit stating the foreign lawyer successfully completed the approved course of study and is believed to be educationally qualified to sit for the examination. The foreign lawyer will be allowed to sit for the examination provided all other requirements are met.
- **31.16(11)** Lawyers registered under prior version of this rule. A lawyer registered under the prior version of this rule is not required to register again or pay the registration fee. Any lawyer who is currently registered under a prior version of this rule is no longer subject to the five-year period for terminating registration as house counsel. All other provisions of this rule apply.
- **31.16(12)** Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. Rule 31.9(7) governs this procedure.
- **31.16(13)** Denial of application or suspension of registration for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. Rule 31.9(6) governs this procedure.
- **31.16(14)** Denial of application or suspension of registration for failure to comply with a support order. The supreme court may deny a lawyer's application for registration or suspend a lawyer's registration under this rule for failure to comply with a support order. Rule 31.9(5) governs this procedure.

[Court Orders April 20, 2005, and July 1, 2005, effective July 1, 2005; September 1, 2005; June 16, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; September 12, 2012; August 21, 2013; May 18, 2015, effective July 1, 2015; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; August 28, 2020; September 14, 2021, effective October 1, 2021]

Rule 31.17 Provision of legal services following determination of major disaster.

- **31.17(1)** Determination of existence of major disaster. Solely for purposes of this rule, the supreme court will determine when an emergency affecting the justice system, as a result of a natural or other major disaster, has occurred in:
- a. This state and whether the emergency caused by the major disaster affects the entirety or only a part of the state; or
- b. Another jurisdiction but only after such a determination and its geographical scope have been made by the highest court of that jurisdiction. The authority to engage in the temporary practice of law in this state pursuant to rule 31.17(3) will extend only to lawyers who principally practice in the area of such other jurisdiction determined to have suffered a major disaster causing an emergency affecting the justice system and the provision of legal services.
- **31.17(2)** Temporary practice—pro bono services. Following the determination of an emergency affecting the justice system in this state pursuant to rule 31.17(1), or a determination that persons displaced by a major disaster in another jurisdiction and residing in this state are in need of pro bono services and the assistance of lawyers from outside of this state is required to help provide such assistance, a lawyer authorized to practice law in another United States jurisdiction, and not disbarred, suspended from practice, or otherwise restricted from practice in any jurisdiction, may provide legal

services in this state on a temporary basis. Such legal services must be provided on a pro bono basis without compensation, expectation of compensation, or other direct or indirect pecuniary gain to the lawyer. Such legal services must be assigned and supervised through an established not-for-profit bar association, pro bono program or legal services program, or through such organization(s) specifically designated by the supreme court.

- 31.17(3) Temporary practice—legal services arising out of and reasonably related to a lawyer's practice of law in another jurisdiction, or area of such other jurisdiction, where the disaster occurred. Following the determination of a major disaster in another United States jurisdiction, a lawyer who is authorized to practice law and principally practices in that affected jurisdiction, and who is not disbarred, suspended from practice, or otherwise restricted from practice in any jurisdiction may provide legal services in this state on a temporary basis. Those legal services must arise out of and be reasonably related to that lawyer's practice of law in the jurisdiction, or area of such other jurisdiction, where the major disaster occurred.
- **31.17(4)** Duration of authority for temporary practice. The authority to practice law in this state granted by rule 31.17(2) will end when the supreme court determines that the conditions caused by the major disaster have ended except that a lawyer then representing clients in this state pursuant to rule 31.17(2) is authorized to continue the provision of legal services for such time as is reasonably necessary to complete the representation, but the lawyer may not thereafter accept new clients. The authority to practice law in this state granted by rule 31.17(3) will end 60 days after the supreme court declares that the conditions caused by the major disaster in the affected jurisdiction have ended.
- **31.17(5)** *Court appearances.* The authority granted by this rule does not include appearances in court except:
 - a. Pursuant to the supreme court's pro hac vice admission rule; or
- b. If the supreme court, in any determination made under rule 31.17(1), grants blanket permission to appear in all or designated courts of this state to lawyers providing legal services pursuant to rule 31.17(2).
- **31.17(6)** Disciplinary authority and registration requirement. Lawyers providing legal services in this state pursuant to rule 31.17(2) or 31.17(3) are subject to the supreme court's disciplinary authority and the Iowa Rules of Professional Conduct as provided in Iowa Rule of Professional Conduct 8.5. Lawyers providing legal services in this state under rule 31.17(2) or 31.17(3) must, within 30 days from the commencement of the provision of legal services, file a registration statement with the office of professional regulation. A form for the registration statement can be found in rule 31.25. Any lawyer who provides legal services pursuant to this rule will not be considered to be engaged in the unlawful practice of law in this state.
- **31.17(7)** *Notification to clients.* Lawyers authorized to practice law in another United States jurisdiction who provide legal services pursuant to this rule must inform clients in this state of the jurisdiction in which they are authorized to practice law, any limits of that authorization, and that they are not authorized to practice law in this state except as permitted by this rule. They must not state or imply to any person that they are otherwise authorized to practice law in this state.

The comment accompanying this rule explains and illustrates the meaning and purpose of the rule. The comment is intended as a guide to interpretation, but the text of the rule is authoritative.

COMMENT

- [1] A major disaster in this state or another jurisdiction may cause an emergency affecting the justice system with respect to the provision of legal services for a sustained period of time interfering with the ability of lawyers admitted and practicing in the affected jurisdiction to continue to represent clients until the disaster has ended. When this happens, lawyers from the affected jurisdiction may need to provide legal services to their clients, on a temporary basis, from an office outside their home jurisdiction. In addition, lawyers in an unaffected jurisdiction may be willing to serve residents of the affected jurisdiction who have unmet legal needs as a result of the disaster or, though independent of the disaster, whose legal needs temporarily are unmet because of disruption to the practices of local lawyers. Lawyers from unaffected jurisdictions may offer to provide these legal services either by traveling to the affected jurisdiction or from their own offices or both, provided the legal services are provided on a pro bono basis through an authorized not-for-profit entity or such other organization(s) specifically designated by the supreme court. A major disaster includes, for example, a hurricane, earthquake, flood, wildfire, tornado, public health emergency, or an event caused by terrorists or acts of war.
- [2] Under rule 31.17(1)(a), the supreme court will determine whether a major disaster causing an emergency affecting the justice system has occurred in this state, or in a part of this state, for purposes of triggering rule 31.17(2). The supreme court may, for example, determine that the entirety of this state has suffered a disruption in the provision of legal services or that only certain areas have suffered such an event. The authority granted by rule 31.17(2) will extend only to lawyers authorized to practice law and not disbarred, suspended from practice, or otherwise restricted from practice in any other manner in any other jurisdiction.
- [3] Rule 31.17(2) permits lawyers authorized to practice law in another jurisdiction, and not disbarred, suspended from practice, or otherwise restricted from practicing law in any other manner in any other jurisdiction, to provide pro bono legal services to residents of this state following a determination of an emergency caused by a major disaster, notwithstanding that they are not otherwise authorized to practice law in this state. Other restrictions on a lawyer's license to practice law that would

prohibit that lawyer from providing legal services pursuant to this rule include, but are not limited to, probation, inactive status, disability inactive status, or a nondisciplinary administrative suspension for failure to complete continuing legal education or other requirements. Lawyers on probation may be subject to monitoring and specific limitations on their practices. Lawyers on inactive status, despite being characterized in many jurisdictions as being "in good standing," and lawyers on disability inactive status are not permitted to practice law. Public protection warrants exclusion of these lawyers from the authority to provide legal services as defined in this rule. Lawyers permitted to provide legal services pursuant to this rule must do so without fee or other compensation, or expectation thereof. Their service must be provided through an established not-for-profit organization that is authorized to provide legal services either in its own name or that provides representation of clients through employed or cooperating lawyers. Alternatively, the supreme court may instead designate other specific organization(s) through which these legal services may be rendered. Under rule 31.17(2), an emeritus lawyer from another United States jurisdiction may provide pro bono legal services on a temporary basis in this state provided that the emeritus lawyer is authorized to provide pro bono legal services in that jurisdiction pursuant to that jurisdiction's emeritus or pro bono practice rule. Lawyers may also be authorized to provide legal services in this state on a temporary basis under Iowa R. of Prof'l Conduct 32:5.5(c).

- [4] Lawyers authorized to practice law in another jurisdiction, who principally practice in the area of such other jurisdiction determined by the supreme court to have suffered a major disaster, and whose practices are disrupted by a major disaster there, and who are not disbarred, suspended from practice or otherwise restricted from practicing law in any other manner in any other jurisdiction, are authorized under rule 31.17(3) to provide legal services on a temporary basis in this state. Those legal services must arise out of and be reasonably related to the lawyer's practice of law in the affected jurisdiction. For purposes of this rule, the determination of a major disaster in another jurisdiction should first be made by the highest court of appellate jurisdiction in that jurisdiction. For the meaning of "arise out of and reasonably related to," see Iowa R. of Prof'l Conduct 32:5.5, cmt. [14].
- [5] Emergency conditions created by major disasters end, and when they do, the authority created by rules 31.17(2) and 31.17(3) also ends with appropriate notice to enable lawyers to plan and to complete pending legal matters. Under rule 31.17(4), the supreme court determines when those conditions end only for purposes of this rule. The authority granted under rule 31.17(2) will end upon such determination, except that lawyers assisting residents of this state under rule 31.17(2) may continue to do so for such longer period as is reasonably necessary to complete the representation. The authority created by rule 31.17(3) will end 60 days after the supreme court makes such a determination with regard to an affected jurisdiction.
- [6] Rules 31.17(2) and 31.17(3) do not authorize lawyers to appear in the courts of this state. Court appearances are subject to the pro hac vice admission rules of the supreme court. The supreme court may, in a determination made under rule 31.17(5)(b), include authorization for lawyers who provide legal services in this state under rule 31.17(2) to appear in all or designated courts of this state without need for such pro hac vice admission. A lawyer who has appeared in the courts of this state pursuant to rule 31.17(5) may continue to appear in any such matter notwithstanding a declaration under rule 31.17(4) that the conditions created by major disaster have ended. Furthermore, withdrawal from a court appearance is subject to Iowa R. of Prof'l Conduct 32:1.16.
- [7] Authorization to practice law as a foreign legal consultant or in-house counsel in a United States jurisdiction offers lawyers a limited scope of permitted practice and may therefore restrict that person's ability to provide legal services under this rule.
- [8] The ABA National Lawyer Regulatory Data Bank is available to help determine whether any lawyer seeking to practice in this state pursuant to rule 31.17(2) or 31.17(3) is disbarred, suspended from practice, or otherwise subject to a public disciplinary sanction that would restrict the lawyer's ability to practice law in any other jurisdiction. [Court Order December 13, 2017, effective January 1, 2018]

[Court Order May 14, 2007; February 14, 2008, effective April 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 31.18 Licensing and practice of foreign legal consultants.

- **31.18(1)** General regulation as to licensing. In its discretion, the supreme court may license to practice in the State of Iowa as a foreign legal consultant, without examination, an applicant who:
- a. Is, and for at least five years has been, a member in good standing of a recognized legal profession in a foreign country, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority.
- b. For at least five years preceding his or her application has been a member in good standing of such legal profession and has been lawfully engaged in the practice of law in the foreign country or elsewhere substantially involving or relating to the rendering of advice or the provision of legal services concerning the law of the foreign country.
- c. Possesses the good moral character and general fitness requisite for a member of the bar of this state
- d. Intends to practice as a foreign legal consultant in this state and to maintain an office in this state for that purpose.
 - **31.18(2)** Application and fee.
- a. The applicant must file an application for a foreign legal consultant license with the National Conference of Bar Examiners through its online character and fitness application process, unless an exception is granted by the office of professional regulation. The applicant must pay the investigative fee required by the National Conference of Bar Examiners at the time of filing the application.
- b. In addition, the applicant must file the following documents and fee with the office of professional regulation:

- (1) A certificate from the professional body or public authority having final jurisdiction over professional discipline in the foreign country in which the applicant is admitted, certifying the applicant's admission to practice, date of admission, and good standing as a lawyer or counselor at law or the equivalent, and certifying that the applicant has not been disciplined and no charges of professional misconduct are pending or identifying any disciplinary sanctions that have been imposed upon the applicant or any pending charges, complaints, or grievances.
- (2) A letter of recommendation from one of the members of the executive body of such professional body or public authority or from one of the judges of the highest law court or court of original jurisdiction in the foreign country in which the applicant is admitted.
- (3) Duly authenticated English translations of the certificate required by rule 31.18(2)(b)(1) and the letter required by rule 31.18(2)(b)(2) if they are not in English.
- (4) The requisite documentation establishing the applicant's compliance with the immigration laws of the United States.
- (5) Other evidence as the supreme court may require regarding the applicant's educational and professional qualifications, good moral character and general fitness, and compliance with the requirements of rule 31.18(1).
- (6) An administrative fee of \$800 payable to the office of professional regulation at the time the application is filed.
- **31.18(3)** Scope of practice. A person licensed to practice as a foreign legal consultant under this rule may render legal services in this state but will not be considered admitted to practice law here, may not in any way hold himself or herself out as a member of the bar of this state, and may not do any of the following:
- a. Appear as a lawyer on behalf of another person in any court or before any magistrate or other judicial officer in this state, except when admitted pro hac vice pursuant to Iowa rule 31.14.
- b. Prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America.
 - c. Prepare:
- (1) Any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof.
- (2) Any instrument relating to the administration of a decedent's estate in the United States of America.
- d. Prepare any instrument in respect of the marital or parental relations, rights, or duties of a resident of the United States of America, or the custody or care of the children of such a resident.
- e. Render professional legal advice on the law of this state or of the United States of America, whether rendered incident to the preparation of legal instruments or otherwise.
- f. Carry on a practice under, or utilize in connection with such practice, any name, title, or designation other than one or more of the following:
 - (1) The foreign legal consultant's own name.
 - (2) The name of the law firm with which the foreign legal consultant is affiliated.
- (3) The foreign legal consultant's authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of that country.
- (4) The title "foreign legal consultant," which may be used in conjunction with the words "admitted to the practice of law in [name of the foreign country of his or her admission to practice]."
- **31.18(4)** Rights and obligations. Subject to the limitations listed in rule 31.18(3), a person licensed under this rule will be considered a foreign legal consultant affiliated with the bar of this state and will be entitled and subject to:
- a. The rights and obligations set forth in the Iowa Rules of Professional Conduct or arising from the other conditions and requirements that apply to a member of the bar of this state under the Iowa Court Rules.
 - b. The rights and obligations of a member of the bar of this state with respect to:
- (1) Affiliation in the same law firm with one or more members of the bar of this state, including by:
 - 1. Employing one or more members of the bar of this state.
- 2. Being employed by one or more members of the bar of this state or by any partnership or professional corporation that includes members of the bar of this state or that maintains an office in this state.

- 3. Being a partner in any partnership or shareholder in any professional corporation that includes members of the bar of this state or that maintains an office in this state.
 - (2) Attorney-client privilege, work-product privilege, and similar professional privileges.
- **31.18(5)** *Discipline.* A person licensed to practice as a foreign legal consultant under this rule will be subject to professional discipline in the same manner and to the same extent as members of the bar of this state. To this end:
 - a. Every person licensed to practice as a foreign legal consultant under this rule:
- (1) Will be subject to the jurisdiction of the supreme court and the Iowa Supreme Court Attorney Disciplinary Board and to reprimand, suspension, removal, or revocation of his or her license to practice by the supreme court and will otherwise be governed by the Iowa Rules of Professional Conduct and the Iowa Court Rules.
- (2) Must execute and file with the clerk of the supreme court, in the form and manner as the court may prescribe:
- 1. A commitment to observe the Iowa Rules of Professional Conduct and the Iowa Court Rules to the extent applicable to the legal services authorized under rule 31.18(3);
- 2. A written undertaking to notify the court of any change in the foreign legal consultant's good standing as a member of the foreign legal profession referred to in rule 31.18(1)(a) and of any final action of the professional body or public authority referred to in rule 31.18(2)(b)(1) imposing any disciplinary reprimand, suspension, or other sanction upon the foreign legal consultant.
- 3. A duly acknowledged instrument in writing, providing the foreign legal consultant's address in this state and designating the clerk of the supreme court as his or her agent for service of process. The foreign legal consultant must keep the office of professional regulation advised in writing of any changes of address in this jurisdiction. In any action or proceeding brought against the foreign legal consultant and arising out of or based upon any legal services rendered or offered to be rendered by the foreign legal consultant within this state or to residents of this state, service will first be attempted upon the foreign legal consultant at the most recent address filed with the clerk. Whenever after due diligence service cannot be made upon the foreign legal consultant at that address, service may be made upon the clerk. Service made upon the clerk in accordance with this provision is effective as if service had been made personally upon the foreign legal consultant.
- b. Service of process on the clerk under rule 31.18(5)(a)(2)(3) must be made by personally delivering to the clerk's office, and leaving with the clerk, or with a deputy or assistant authorized by the clerk to receive service, duplicate copies of the process. The clerk must promptly send one copy of the process to the foreign legal consultant to whom the process is directed, by certified mail, return receipt requested, addressed to the foreign legal consultant at the most recent address provided in accordance with rule 31.18(5)(a)(2)(3).
- **31.18(6)** Required fees and annual statements. A person licensed as a foreign legal consultant must pay a \$200 registration fee to the Client Security Commission. The person licensed under this rule must file an annual statement and pay the annual disciplinary fee as required by Iowa Court Rules 39.5 and 39.8.
- **31.18(7)** Revocation of license. If the supreme court determines that a person licensed as a foreign legal consultant under this rule no longer meets the requirements for licensure set forth in rule 31.18(1)(a) or (b), it will revoke the foreign legal consultant's license.
- **31.18(8)** Admission to bar. If a person licensed as a foreign legal consultant under this rule is subsequently admitted as a member of the bar of this state under the rules governing admission, that person's foreign legal consultant license will be deemed superseded by the license to practice law as a member of the bar of this state.

[Court Order June 3, 2009; January 19, 2010; August 21, 2013; September 14, 2017, effective November 2, 2017; December 13, 2017, effective January 1, 2018]

Rule 31.19 Certification and pro bono participation of emeritus attorneys.

- **31.19(1)** *Purpose.* This rule establishes the emeritus attorneys pro bono participation program. **31.19(2)** *Definitions.*
- a. Emeritus attorney. An "emeritus attorney" is any person who is admitted to practice law in Iowa and is on inactive, active, or retired status at the time of application, or who is or was admitted to practice law before the highest court of any other state or territory of the United States or the District of Columbia, and:
 - (1) Does not have a pending disciplinary proceeding.
 - (2) Has never been disbarred or had a license to practice law revoked in any jurisdiction.

- (3) Agrees to abide by the Iowa Rules of Professional Conduct and submit to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes.
- (4) Neither requests nor accepts compensation of any kind for the legal services to be rendered under this chapter.
 - (5) Is certified under this rule.
- *b. Active.* For purposes of this rule, "active" describes lawyers with the status of corporate, full-time, part-time, government, judge, or military service for purposes of the Client Security Commission.
- c. Approved legal aid organization. For purposes of this rule, an "approved legal aid organization" includes a program sponsored by a bar association, law school, or a not-for-profit legal aid organization, approved by the Iowa Supreme Court, whose primary purpose is to provide legal representation to low-income persons in Iowa. A legal aid organization seeking approval from the court for the purposes of this rule must file a petition with the office of professional regulation certifying that it is a not-for-profit organization and reciting with specificity:
 - (1) The structure of the organization and whether it accepts funds from its clients.
 - (2) The major sources of funds the organization uses.
- (3) The criteria used to determine potential clients' eligibility for legal services the organization performs.
 - (4) The types of legal and nonlegal services the organization performs.
- (5) The names of all members of the Iowa bar the organization employs or who regularly perform legal work for the organization.
 - (6) The existence and extent of malpractice insurance that will cover the emeritus attorney.
 - (7) The number of attorneys on the organization's board of directors.
 - (8) The availability of in-house continuing legal education.

31.19(3) *Activities.*

- a. Permissible activities. An emeritus attorney, in association with an approved legal aid organization, may perform the following activities:
- (1) The emeritus attorney may appear in any court or before any administrative tribunal in this state on behalf of a client of an approved legal aid organization.
- (2) The emeritus attorney may prepare pleadings and other documents to be filed in any court or before any administrative tribunal in this state in any matter in which the emeritus attorney is involved. Such pleadings must include the attorney's status as emeritus attorney and the name of the approved legal aid organization, except as permitted by Iowa Rule of Civil Procedure 1.423.
- (3) The emeritus attorney may provide advice, screening, transactional, and other activities for clients of approved legal aid organizations.
- b. Determination of nature of participation. The presiding judge or hearing officer may, in the judge's or officer's discretion, determine the extent of the emeritus attorney's participation in any proceedings before the court.

31.19(4) *Supervision and limitations.*

- a. Supervision by attorney. An emeritus attorney providing legal advice through the COVID-19 Legal Information Hotline program may do so without supervision. An emeritus attorney must perform all other activities authorized by this chapter under the general supervision of the approved legal aid organization.
- b. Representation of status. Attorneys permitted to perform services under this chapter may only hold themselves out as emeritus attorneys.
- c. Payment of expenses and award of fees. The prohibition against compensation for the emeritus attorney contained in rule 31.19(2)(a)(4) does not prevent the approved legal aid organization from reimbursing the emeritus attorney for actual expenses incurred while rendering services under this chapter or from paying continuing legal education attendance fees on behalf of the emeritus attorneys, nor does it prevent the approved legal aid organization from making such charges for its services as it may otherwise properly charge. The approved legal aid organization is entitled to receive all court-awarded attorneys' fees for any representation rendered by the emeritus attorney.
- **31.19(5)** *Certification.* Permission for an emeritus attorney to perform services under this chapter is effective upon filing with and approval by the office of professional regulation of:
- a. A certification from an approved legal aid organization stating that the emeritus attorney is currently associated with that legal aid organization and that all activities of the emeritus attorney

will be under the general supervision of the legal aid organization or a certification from the attorney that the attorney has completed the training provided by the COVID-19 Legal Information Hotline and will limit the attorney's activities to the pro bono provision of legal advice only to individuals referred through the COVID-19 Legal Information Hotline.

- b. A certificate from the highest court or agency in the state, territory, or district in which the emeritus attorney previously has been licensed to practice law, certifying that the emeritus attorney is in good standing, does not have a pending disciplinary proceeding, and has never been disbarred or had the license to practice law revoked.
 - c. A sworn statement from the emeritus attorney that the emeritus attorney:
- (1) Relinquishes status as an inactive, active, or retired lawyer and requests placement in emeritus status for purposes of the Client Security Commission and Commission on Continuing Legal Education.
 - (2) Understands and will abide by the provisions of the Iowa Rules of Professional Conduct.
- (3) Submits to the jurisdiction of the Iowa Supreme Court, the Iowa Supreme Court Attorney Disciplinary Board, and the Iowa Supreme Court Grievance Commission for disciplinary purposes.
- (4) Will neither request nor accept compensation of any kind for the legal services authorized under this chapter.
 - **31.19(6)** Withdrawal of certification.
- a. Withdrawal of permission to perform services. Permission to perform services under this chapter must cease immediately upon the filing with the office of professional regulation of a notice either:
- (1) From the approved legal aid organization stating that the emeritus attorney has ceased to be associated with the organization, which notice must be filed within 30 days after such association has ceased; or
- (2) From the Iowa Supreme Court, in its discretion, at any time, stating that permission to perform services under this chapter has been revoked. A copy of such notice must be mailed by the office of professional regulation to the emeritus attorney involved and to the approved legal aid organization.
- b. Notice of withdrawal. If an emeritus attorney's certification is withdrawn for any reason, the approved legal aid organization must immediately file a notice of such action in the official file of each matter pending before any court or tribunal in which the emeritus attorney was involved.
- **31.19(7)** *Discipline.* In addition to any appropriate proceedings and discipline that may be imposed upon the emeritus attorney by the Iowa Supreme Court under the court's disciplinary rules, the Iowa Rules of Professional Conduct, or the Code of Iowa, the Iowa Supreme Court may, at any time, with or without cause, withdraw certification under this rule.
 - **31.19(8)** Fees and annual statements.
- a. Annual report to Client Security Commission. A lawyer certified under this rule must file the annual questionnaire required by Iowa Court Rule 39.11 and the annual statement required by Iowa Court Rule 39.8(1) but is exempt from the annual disciplinary fee and fund assessment provided in Iowa Court Rules 39.5 and 39.6.
- b. Annual report to Commission on Continuing Legal Education. A lawyer certified under this rule must fulfill the continuing legal education attendance, reporting, and fee payment requirements set forth in Iowa Court Rules 41.3 and 41.4. However, a lawyer is not required to comply with the continuing legal education requirements set forth in Iowa Court Rule 41.3 for the calendar year in which the lawyer is first certified under this rule. The approved legal aid organization may pay the continuing legal education reporting fee on behalf of the emeritus attorney.

[Court Order March 1, 2013; December 13, 2017, effective January 1, 2018; April 17, 2020]

Rules 31.20 to 31.24 Reserved.

Rule 31.25 Forms.	
Rule 31.25 — Form 1:	Application for Admission Pro Hac Vice—District Court

	Iowa District Court for		Count	y
	County	where your ca	se is filed	
		Case no		
	nintiff(s) ! name: first, middle, last		pplication for A o Hac ViceDis Iowa Court Rule	trict Court
VS.				
	fendant(s) ! name: first, middle, last			
1.	Application	•		
	The undersigned seeks permission to appear particle. Applicant must complete all of the following: If this matter involves review of an agency action the proceedings below? Yes No If yes, attach copies of all related documents.	on, did the ap	oplicant seek admis	sion pro hac vice in
a.	Applicant's full name, residential addre	ss, email a	ddress, and bus	iness address.
	Full name: first, middle, last	Email addre	?SS	
	Mailing address	City	State	ZIP code
	Business address	City	State	ZIP code
b.	The name, address, and telephone nur	mber of ead	ch client to be re	presented.
C.	The courts before which the applicant he respective periods of admission and an has been licensed to practice as a fore period of licensure.	ny jurisdictio	on in which the o	ut-of-state lawyer
d.	Has the applicant ever been denied ad ☐ Yes ☐ No	mission pro	hac vice in this	state?

Rule	31.25—Form 1: Application for Admission Pro Hac ViceDistrict Court, continued
	If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.
e.	Has the applicant ever had admission pro hac vice revoked in this state?
	☐ Yes ☐ No
	If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.
f.	Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination? \square Yes \square No
	If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.
g.	Has the applicant ever been formally disciplined or sanctioned by any court in this state? ☐ Yes ☐ No
	If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.
h.	Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere? Yes No
	If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.
i.	Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years? Yes No
	If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.
j.	Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction? $\ \ \ \ \ \ \ \ \ \ \ \ \ $
	If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.
k.	Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to the court's rules or orders? Yes No
	If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral ruling and other related documents.
l.	Has the applicant filed an application to appear pro hac vice in this state within the preceding two years? $\ \ \ \ \ \ \ \ \ \ \ \ \ $

Rule 31.25—Form 1: Application for Admission Pro Hac Vice--District Court, continued

	If yes, on a separate page list the name and address of proceeding in which an application was filed, includin copies of all related documents.			
m.	The applicant acknowledges familiarity w disciplinary procedures of this state, the sapplicable local rules, and the procedures seeks to practice. Yes No	standards fo	r professiona	I conduct, the
n.	List the name, address, telephone number identification number of an in-state lawye who will sponsor the applicant's pro hack	r in good st	anding of the	
	Lawyer's name PIN	Email	address	
	Lawyer's address	City	State	ZIP code
0.	The applicant acknowledges that service connected with the proceedings will have upon the applicant. Yes No			
p.	If the applicant has appeared pro hac vice preceding two years, the applicant must, statement showing good cause why the approceeding.	on a separa	ate attached p	page, provide a
q.	On a separate attached page the applica applicant deems necessary to support the			
r.	Has the applicant registered with the office fee as required by lowa Court Rule 31.14 application? Yes No			

Lawyer's Oath and Signature and Certificate of Service on next page

Rule 31.25—Form 1: Application for Admission Pro Hac Vice--District Court, continued

	, 20		
Signed on: Month L	Day Year	Your signature*	
Mailing address		City	State ZIP cod
)	_		
elephone number	Email address	Add	litional email address, if applic
lectronically.	Certifica	ite of Service	a digitized signature and file th
lectronically.	Certifica	ite of Service	
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Rule 31.25 — Form 2: Application for Admission Pro Hac Vice—Iowa Supreme Court

	In the Iowa S	upreme Cou	rt	
		Case no		
	nintiff(s) ! name: first, middle, last	Pro Hac	ication for A Vicelowa S Iowa Court Rule	upreme Court
VS.				
	fendant(s) ! name: first, middle, last			
1.	Application			
	The undersigned seeks permission to appear part Applicant shall complete all of the following:	ro hac vice in the	e above-caption	ed proceeding.
	Did the applicant seek admission pro hac vice in If yes, attach copies of all related documents.	n the proceeding	gs below? □Ye	es 🗌 No
a.	Applicant's full name, residential addres	s, email addr	ess, and busi	iness address.
	Full name: first, middle, last	Email address		
	Mailing address	City	State	ZIP code
	Business address	City	State	ZIP code
b.	The name, address, and phone number	of each clien	t sought to be	e represented.
c.	The courts before which the applicant he respective periods of admission and any has been licensed to practice as a foreign of licensure.	y jurisdiction i	n which the o	ut-of-state lawyer
d.	Has the applicant ever been denied adr	nission pro ha	ac vice in this	state?
	☐ Yes ☐ No			
	If yes, on a separate page specify the caption of the pande. Attach copies of all related documents.	proceedings, the a	late of the denial,	and what findings were
e.	Has the applicant ever had admission p	ro hac vice re	voked in this	state?
	☐ Yes ☐ No			

Rule 31.25—Form 2: Application for Admission Pro Hac Vice--Iowa Supreme Court, continued

	If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.
f.	Has the applicant ever been denied admission in any jurisdiction for reasons other than failure of a bar examination? $\ \ \ \ \ \ \ \ \ \ \ \ \ $
	If yes, on a separate page specify the caption of the proceedings, the date of the denial, and what findings were made. Attach copies of all related documents.
g.	Has the applicant ever been formally disciplined or sanctioned by any court in this state? ☐ Yes ☐ No
	If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.
h.	Has the applicant ever been the subject of any injunction, cease-and-desist letter, or other action arising from a finding that the applicant engaged in the unauthorized practice of law in this state or elsewhere? Yes No
	If yes, on a separate page specify the nature of the allegations, the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings. Attach copies of all related documents.
i.	Has any formal, written disciplinary proceeding ever been brought against the applicant by a disciplinary authority or unauthorized practice of law commission in any other jurisdiction within the last five years? Yes No
	If yes, on a separate page specify as to each such proceeding: the nature of the allegations, the name of the person or authority bringing such proceedings, the date the proceedings were initiated and finally concluded, the style of the proceedings, and the findings made and actions taken in connection with those proceedings. Attach copies of all related documents.
j.	Has the applicant ever been placed on probation by a disciplinary authority in any other jurisdiction? ☐ Yes ☐ No
	If yes, on a separate page specify the jurisdiction, caption of the proceedings, the terms of the probation, and what findings were made. Attach copies of all related documents.
k.	Has the applicant ever been held formally in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to the court's rules or orders? \square Yes \square No
	If yes, on a separate page specify the nature of the allegations, the name of the court before which such proceedings were conducted, the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings. Attach to this application a copy of the written order or a transcript of the oral ruling and other related documents.
l.	Has the applicant filed an application to appear pro hac vice in this state within the preceding two years? ☐ Yes ☐ No
	If yes, on a separate page list the name and address of each court or agency and a full identification of each proceeding in which an application was filed, including the date and outcome of the application. Attach copies of all related documents.
m.	The applicant acknowledges familiarity with the rules of professional conduct, the disciplinary procedures of this state, the standards for professional conduct, the applicable local rules, and the procedures of the court before which the applicant seeks to practice. Yes No

 $\textbf{Rule 31.25} \\ \textbf{—Form 2:} \ \textit{Application for Admission Pro Hac Vice--Iowa Supreme Court}, \textbf{continued}$

	Lawyer's name		PIN	Emai	l address		
	Lawyer's address			City	State	Z.	IP code
Ο.	The applicant ack connected with the the applicant.	e proceeding	gs will h	•	•		
p.	If the applicant ha preceding two year showing good cau proceeding.	rs, the appl	icant mu	ust, on a separa	te page, pro	ovide a	statement
q.	On a separate atta applicant deems r						
r.	Has the applicant as required by low application?	va Court Ru					
2.	Oath and Signatu	re					
	l,		, hav	e read this App	olication, and	d I certi	fy under
	l, Print your name penalty of perjury a						
	Print your name						
	Print your name penalty of perjury a true and correct.	and pursuan	t to the	laws of the Stat			
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Rule 31.25—Form 2: Application for Admission Pro Hac Vice--Iowa Supreme Court, continued

Certificate of Service					
The undersigned certifies a copy of this application	was served on the following parties				
on the day of, $20_{\underline{\it Year}}$					
by Personal delivery Deposit in the U.S.	mail				
	Signature of server				

Rule 31.25 — Form 3: Registration Statement for Lawyer Engaging in Temporary Practice Following Determination of Major Disaster

	In the Iowa Supreme Court				
		Registration Statement for Lawyer Engaging in Temporary Practice Following Determination of Major Disaster Iowa Court Rule 31.17			
Pur	suant to Iowa Court Rule 31.17(6) the undersigned m	ust complete the following:			
1.	Name				
	Lawyer's full name: first, middle, last	Name of Lawyer's firm			
2.	Home state information				
	Residential address in lawyer's home s	tate:			
	Business address in lawyer's home state:				
	Telephone numbers in lawyer's home state:				
	Email addresses:				
3.	lowa information				
	Residential address in Iowa:				
	Business address in lowa:				
	Telephone numbers in lowa:				
	Email addresses:				

 January 2017
 Rule 31.25—Form 3
 Page 1 of 2

Rule 31.25—Form 3: Registration Statement for Lawyer Engaging in Temporary Practice Following Determination of Major Disaster, continued

4.	Bar admission							
	List the courts before which you have been admitted to practice, the respective periods of admission, and your registration or bar numbers.							
	Is your license to restrictions in any				arment, suspe	nsion, d	or	
	If yes, on a separate pa	ge specify the	proceedings	and attach copi	es of all related doc	ruments.		
5.	Temporary Prac	tice Follow	ving Dete	ermination o	f Major Disas	ter		
	Specify whether y	ou will end	age in te	mporary prac	ctice pursuant t	:o:		
	Check all that apply			. ,,	•			
	☐ Iowa Court Ru	ile 31.17(2)) (pro bon	o legal servi	ces).			
		ther jurisdic			nably related to other jurisdiction			
Oa	and the lowa Rule Conduct, and any th and Signature I,		local rule	es and proce		□ No)	
	Print your name							
	I certify under pen- the preceding is tra authorized to prac- subject to suspens	ue and cori tice law in e	rect and t each juris	hat I am lice diction listed	nsed and in go above and my	od star	nding and	
	Signed on: Month	Day	Year	Your signature	2*			
	Mailing address			- City		State	ZIP code	
	()							
	Telephone number	Ema	il address		Additional em	ail addres	ss, if applicable	
	*If filing in paper, you n signature on the form, sca electronically.							
Jani	Jary 2017		Rule 31 25	—Form 3			Page 2 of 2	

CHAPTER 34 ADMINISTRATIVE AND GENERAL PROVISIONS

GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

Rule 34.1	Iowa Supreme Court Grievance Commission
Rule 34.2	Grievance commission; vice chair duties
Rule 34.3	Substitutions and vacancies on the grievance commission
Rule 34.4	Confidentiality of grievance commission
Rule 34.5	Retention of grievance commission records
	ATTORNEY DISCIPLINARY BOARD
Rule 34.6	Iowa Supreme Court Attorney Disciplinary Board
Rule 34.7	Disciplinary board advisory opinions prohibited
Rule 34.8	Retention of disciplinary board records
	GENERAL DISCIPLINARY RULES OF
GRIEV	ANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD
Rule 34.9	Effective dates
Rule 34.10	Jurisdiction
Rule 34.11	Reserved
Rule 34.12	Immunity
Rule 34.13	Reports
Rule 34.14	Interim suspension for threat of harm
Rule 34.15	Suspension on conviction of a crime
Rule 34.16	Suspension or disbarment on consent
Rule 34.17	Disability suspension
Rule 34.18	Death, suspension, or disbarment of practicing attorney
Rule 34.19	Reciprocal discipline
Rule 34.20	Suspension of attorney's license for failure to comply with a child support order
Rule 34.21	Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission
Rule 34.22	Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue
Rule 34.23	Suspension generally
Rule 34.24	Notification of clients and counsel
	REINSTATEMENT AND READMISSION
Rule 34 25	Procedure on application for reinstatement or readmission

CHAPTER 34 ADMINISTRATIVE AND GENERAL PROVISIONS

GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

Rule 34.1 Iowa Supreme Court Grievance Commission.

- **34.1(1)** There is hereby created the Iowa Supreme Court Grievance Commission (grievance commission) consisting of 25 attorneys from judicial election district 5C, 15 attorneys from judicial election district 5A, 10 attorneys from judicial election district 6, and 5 attorneys from each other judicial election district, to be appointed by the supreme court. The supreme court will designate one attorney as grievance commission chair. The supreme court will accept nominations for appointment to the grievance commission from any association of attorneys that maintains an office within the State of Iowa or any attorney licensed in Iowa. The grievance commission also consists of no fewer than 5 or more than 45 laypersons appointed by the court. Members must serve no more than two three-year terms, and no member who has served two full terms is eligible for reappointment. A member serving as a primary or alternate member of a division of the grievance commission at the time the member's regular term ends must, nonetheless, continue to serve on that division until the division has concluded its duties with respect to the complaint for which the division was appointed.
- **34.1(2)** Grievance commission members are referred to as commissioners. The grievance commission or a duly appointed division of the grievance commission must hold hearings and receive evidence concerning alleged violations, wherever such violations occur, of the Iowa Rules of Professional Conduct, the laws of the United States, and the laws of the State of Iowa or any other state or territory within their respective jurisdictions, by attorneys within the jurisdiction of the grievance commission as described in rule 34.10. The grievance commission has such other powers and duties as these rules provide.
- **34.1(3)** A grievance commission member must not represent, in any stage of an investigative or disciplinary proceeding, any attorney against whom an ethical complaint is filed. A grievance commission member may represent an attorney in a malpractice, criminal, or other matter; however, the member must decline representation of the attorney in any stage of the investigative or disciplinary proceeding and must not participate in any hearing or other proceeding before the grievance commission. These prohibitions extend to attorneys associated in a firm with a grievance commission member with respect to those cases in which the member participates or has participated as a member of a division or as an alternate.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.1 formerly appeared at Iowa Court Rule 35.1. It is amended to delete the requirement for annual designation of the grievance commission chair. The requirement for administrative committee review of the annual grievance commission budget also is removed. Responsibility for formulation and submission of the annual budget for the grievance commission is addressed in chapter 49 of the Iowa Court Rules. Jurisdictional requirements are deleted from the rule and replaced by a reference to the new jurisdiction provision in rule 34.10. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.2 Grievance commission; vice chair duties. The executive director of the office of professional regulation must designate a clerk and an assistant clerk for the grievance commission. The executive director of the office of professional regulation and the grievance commission chair must designate a vice chair. In the chair's absence or inability to act, the vice chair must perform all duties of the chair.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.2 formerly appeared as Iowa Court Rule 36.1. It is amended to remove the specific designation of the assistant director for boards and commissions as the grievance commission clerk to provide more flexibility in assignment of duties within the office of professional regulation. The provision for short-form references to the grievance commission is moved to rule 34.1(1). [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.3 Substitutions and vacancies on the grievance commission.

- **34.3(1)** In the absence of the grievance commission chair and vice chair or inability of the chair and vice chair to perform any of the duties provided in this chapter, the executive director of the office of professional regulation may designate some other member as acting chair to perform the duties.
- **34.3(2)** In the absence or inability of a division president to perform any of the duties provided in this chapter, the chair may designate some other member as acting president to perform the duties. If

a vacancy occurs in any division from any cause, the chair, vice chair, or acting chair of the grievance commission must fill the vacancy.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.3 formerly appeared as Iowa Court Rule 36.16. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.4 Confidentiality of grievance commission.

- **34.4(1)** All records, papers, proceedings, meetings, and hearings of the grievance commission are confidential unless the grievance commission recommends that the supreme court reprimand the respondent or suspend or revoke the respondent's license.
- **34.4(2)** If the grievance commission recommends that the supreme court reprimand the respondent or suspend or revoke the respondent's license, the grievance commission's report of reprimand or recommendation for license suspension or revocation is a public document upon its filing with the supreme court clerk. In addition, if the grievance commission recommends the supreme court reprimand the respondent or suspend or revoke the respondent's license, the complaint filed with the grievance commission by the Iowa Supreme Court Attorney Disciplinary Board is a public document.
- **34.4(3)** Any other records and papers of the grievance commission concerning any complaint are privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the respondent, the attorneys, or the attorneys' agents involved in the proceeding before the grievance commission. The respondent, the attorneys, or the attorneys' agents involved in the proceeding before the grievance commission must not disclose any records and papers of the grievance commission concerning any complaint to any third parties unless disclosure is required in the prosecution or defense of disciplinary charges. The confidential records and papers of the grievance commission concerning any complaint are not admissible in evidence in a judicial or administrative proceeding other than the formal grievance commission hearing under Iowa Court Rule 36.17.
- **34.4(4)** Every witness in every proceeding under this chapter must swear or affirm to tell the truth and not to disclose the existence of the proceeding or the identity of the respondent until the proceeding is no longer confidential.
- **34.4(5)** All communications, papers, and materials concerning any complaint that may come into the hands of a grievance commission member must remain confidential, and the member must keep them in a safe and secure place.
- **34.4(6)** The grievance commission clerk, the chair, or a grievance commission member the chair designates may issue one or more clarifying announcements when the subject matter of a complaint is of broad public interest and failure to supply information on the status and nature of the formal proceedings could threaten public confidence in the administration of justice. No other grievance commission member may make any public statement concerning any matter before the grievance commission without prior approval of the grievance commission.
- **34.4(7)** Nothing in this chapter prohibits the grievance commission from releasing any information regarding possible criminal violations to appropriate law enforcement authorities, wherever located, or to attorney disciplinary and bar admission authorities in other jurisdictions, or from releasing any information regarding possible violations of the Iowa Code of Judicial Conduct to the Commission on Judicial Qualifications.
- **34.4(8)** For purposes of this rule, a grievance commission recommendation that a respondent not licensed to practice law in Iowa be publicly censured or reprimanded or be ordered, enjoined, or otherwise directed not to practice law in Iowa for any period of time is deemed the equivalent of a recommendation to reprimand, suspend, or revoke.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.4 formerly appeared as Iowa Court Rule 36.18. Rule 34.4(8) is added to clarify application of the public disclosure rule to commission recommendations in cases involving respondents not licensed in Iowa. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.5 Retention of grievance commission records.

34.5(1) The grievance commission must permanently retain the complaint, answer, amendments to the complaint and answer, and the grievance commission recommendation for discipline or other disposition for each grievance case. Grievance commission files and records relating to a grievance complaint otherwise may be destroyed after the death of the respondent. For purposes of this rule,

destruction of paper records after the records have been transferred to computer storage is permitted immediately after the transfer.

34.5(2) Notwithstanding any required destruction of documents, the grievance commission will permanently maintain a summary of all grievance matters containing the name of the respondent attorney, the disposition, and the respective dates on which the matter was opened and closed. [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018] **COMMENT:** Rule 34.5 formerly appeared as Iowa Court Rule 36.19. [Court Order January 26, 2016, effective April 1, 2016]

ATTORNEY DISCIPLINARY BOARD

Rule 34.6 Iowa Supreme Court Attorney Disciplinary Board.

34.6(1) There is hereby created the Iowa Supreme Court Attorney Disciplinary Board (disciplinary board). The disciplinary board consists of nine attorney members and three laypersons appointed by the supreme court. The supreme court will designate one of the attorneys as chair. The disciplinary board may appoint a vice chair who must perform all duties of the chair in the chair's absence or inability to act. The supreme court will accept nominations for appointment to the disciplinary board from any association of attorneys that maintains an office within the State of Iowa or any attorney licensed in Iowa. Members may serve no more than two three-year terms, and no member who has served two full terms is eligible for reappointment. Disciplinary board members are appointed commissioners of the supreme court to initiate or receive and process complaints against any attorney within the jurisdiction of the disciplinary board as described in rule 34.10. Upon completion of any investigation, the board must either dismiss the complaint, admonish or reprimand the attorney, or file and prosecute the complaint before the grievance commission or any grievance commission division. The disciplinary board may additionally refer complaints involving attorneys who are not authorized to practice law in Iowa to the commission on the unauthorized practice of law.

34.6(2) A disciplinary board member must not represent, in any stage of an investigative or disciplinary proceeding, any attorney against whom an ethical complaint is filed. To avoid even the appearance of impropriety, a disciplinary board member should not represent any attorney in any malpractice, criminal, or other matter when it appears that the filing of an ethical complaint against that attorney is reasonably likely. These prohibitions extend to attorneys associated in a firm with a disciplinary board member.

34.6(3) The director of attorney discipline of the office of professional regulation is the principal executive officer of the board. A reference in this chapter to the "director" refers to the director of attorney discipline of the office of professional regulation. The director is responsible to the disciplinary board, to the director of the office of professional regulation, and to the supreme court for proper administration of these rules. Subject to the approval of the supreme court, the disciplinary board may employ such other persons as it deems necessary for the proper administration of this chapter. The director and other disciplinary board employees will receive such compensation and expenses as the supreme court may fix upon recommendation of the director of the office of professional regulation.

34.6(4) The executive director of the office of professional regulation must, at least 60 days prior to the start of each fiscal year or on a date otherwise specified by the supreme court, submit to the supreme court for its consideration and approval a budget covering the operations of the disciplinary board for the upcoming fiscal year. This budget must include proposed expenditures for staff, support staff, office space, equipment, supplies, and other items necessary to administer the responsibilities of the disciplinary board as set out in this chapter. Supreme court approval of the budget authorizes payment as provided in the budget. A separate bank account designated as the ethics operating account of the disciplinary fund must be maintained for payment of authorized expenditures as provided in the approved budget. Funds derived from the annual disciplinary fee set out in Iowa Court Rule 39.5 must be deposited in the ethics operating account to the extent the supreme court authorizes each year for payment of the disciplinary board's authorized expenditures.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.6 formerly appeared as Iowa Court Rule 35.2. It is amended to delete the requirement for annual designation of the disciplinary board chair. The requirement for an administrative committee for review and submission of the annual disciplinary board budget also is removed. Responsibility for formulation and submission of the annual budget for the disciplinary board is placed with the director of the office or professional regulation, which is consistent with the budget provisions for other boards and commissions of the office of professional regulation in chapter 49 of the Iowa Court Rules. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.7 Disciplinary board advisory opinions prohibited. The disciplinary board must not render advisory opinions, either orally or in writing. [Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.7 is adapted from rule 4C of the ABA Model Rules for Lawyer Disciplinary Enforcement. The supreme court adopted a similar prohibition for the disciplinary board in 2005. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.8 Retention of disciplinary board records.

- **34.8(1)** The disciplinary board must maintain files and records relating to allegations of misconduct by an attorney until destruction is authorized pursuant to the following schedule:
- a. Files and records relating to potential complaints the director declines to open pursuant to Iowa Court Rule 35.4(1) may be destroyed one year from the date of the last action on the file.
- b. Files and records relating to complaints the disciplinary board dismisses may be destroyed five years from the date of the last action on the file.
- c. All other files and records relating to allegations of respondent misconduct may be destroyed after death of the respondent.
- d. For purposes of this rule, destruction of paper files is permitted immediately after the files have been transferred to computer storage.
- **34.8(2)** Notwithstanding any required destruction of documents, the disciplinary board must permanently maintain a summary of all complaint matters containing the name of the complainant and the respondent, the disposition of the complaint, and the respective dates on which the complaint was opened and closed.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.8 formerly appeared as Iowa Court Rule 35.29. [Court Order January 26, 2016, effective April 1, 2016]

GENERAL DISCIPLINARY RULES OF GRIEVANCE COMMISSION AND ATTORNEY DISCIPLINARY BOARD

Rule 34.9 Effective dates. The rules in chapters 34, 35, and 36 of the Iowa Court Rules apply prospectively and retrospectively to all alleged violations, complaints, hearings, and dispositions on which a hearing has not actually commenced before the grievance commission prior to April 1, 2016. [Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.9 formerly appeared as Iowa Court Rule 35.26. It is amended to make clear its application to all three chapters. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.10 Jurisdiction.

- **34.10(1)** Attorneys admitted to practice. Any attorney admitted to practice law in the State of Iowa, including any formerly admitted attorney with respect to acts committed prior to suspension, disbarment, retirement, or transfer to inactive status or with respect to subsequent acts that amount to the practice of law or constitute a violation of the rules of this chapter or of the Iowa Rules of Professional Conduct or of any rules or code the supreme court subsequently adopts in lieu thereof, any attorney an Iowa court specially admits for a particular proceeding, and any attorney not admitted in Iowa who practices law or renders or offers to render any legal services in Iowa is subject to the disciplinary jurisdiction of the Iowa Supreme Court, the disciplinary board, and the grievance commission.
- **34.10(2)** Former judges. A former judge who has resumed the status of an attorney is subject to the jurisdiction of the disciplinary board and the grievance commission not only for conduct as an attorney but also for misconduct that occurred while the attorney was a judge and that would have been grounds for discipline under the rules of professional conduct for attorneys, provided that the misconduct was not the subject of a judicial disciplinary proceeding as to which the Iowa Supreme Court has reached a final determination.
- **34.10(3)** *Incumbent judges.* Incumbent judges are not subject to the jurisdiction of the disciplinary board or the grievance commission. However, if an incumbent judge is to be removed from office in the course of a judicial discipline or disability proceeding, the supreme court will first provide the disciplinary board and the respondent an opportunity to submit a recommendation regarding whether attorney discipline should be imposed, and if so, the extent of the discipline.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.10 is adapted from rule 6 of the ABA Model Rules for Lawyer Disciplinary Enforcement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.11 Reserved.

Rule 34.12 Immunity.

- **34.12(1)** Complaints submitted to the grievance commission or the disciplinary board and testimony regarding the complaints are privileged, and no lawsuit may be based on the complaints or testimony.
- **34.12(2)** Claims against members of the grievance commission, the disciplinary board, the executive director, directors, or the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.
- **34.12(3)** On application from the disciplinary board or the grievance commission and notice to the appropriate prosecuting authority, the supreme court may grant immunity from criminal prosecution to a witness in a disciplinary or disability proceeding.

[Court Order January 26, 2016, effective April 1, 2016; September 14, 2021, effective October 1, 2021] COMMENT: Rules 34.12(1) and 34.12(2) formerly appeared at Iowa Court Rule 35.24. Rule 34.12(3) is adapted from rule 12B of the ABA Model Rules for Lawyer Disciplinary Enforcement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.13 Reports. The chair of the grievance commission and the chair of the disciplinary board must, on or before March 1 of each year, submit to the supreme court a consolidated report of the number of complaints received and processed during the prior calendar year, a synopsis of each complaint, and the disposition of the complaint. The name of the attorney charged and the name of the complainant must be omitted.

[Court Order January 26, 2016, effective April 1, 2016; July 24, 2019, effective August 1, 2019] COMMENT: Rule 34.13 formerly appeared as Iowa Court Rule 35.25. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.14 Interim suspension for threat of harm.

- **34.14(1)** Upon receipt of evidence demonstrating probable cause that an attorney subject to the disciplinary jurisdiction of the supreme court has committed a violation of the Iowa Rules of Professional Conduct that poses a substantial threat of serious harm to the public, the disciplinary board must do the following:
- a. Transmit the evidence to the supreme court with a verified petition for interim suspension pending formal disciplinary proceedings. The petition must state with particularity the disciplinary rules the attorney is alleged to have violated and the exact nature of the threat of serious harm to the public.
- b. Promptly notify the attorney by any reasonable means that a petition has been filed and provide service of the petition.
- **34.14(2)** Upon receipt of the petition and evidence, the supreme court will determine whether the disciplinary board has established by a convincing preponderance of the evidence that a disciplinary violation posing a substantial threat of serious harm to the public exists. If a disciplinary violation is established, the supreme court may enter an order immediately suspending the attorney pending final disposition of a disciplinary proceeding based on the conduct, or the court may order such other action as it deems appropriate. The order may provide that any further proceedings based on the attorney's conduct be expedited. If the supreme court enters a suspension order, the court may direct the chief judge of the judicial district in which the attorney practiced to appoint a trustee under rule 34.18.
- **34.14(3)** An attorney suspended pursuant to this rule may file a petition to dissolve or modify the interim suspension order. The attorney must serve the petition on the disciplinary board's counsel and the chief judge of the judicial district in which the attorney practiced. The supreme court will promptly schedule the matter for hearing before one or more justices. The hearing must be set for a date no sooner than seven days after the petition is filed unless both parties and the court agree to an earlier date. At the hearing, the attorney has the burden of demonstrating that the suspension order should be dissolved or modified.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.14 formerly appeared as Iowa Court Rule 35.4. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.15 Suspension on conviction of a crime.

34.15(1) Upon the supreme court's receipt of satisfactory evidence that an attorney has pled guilty or nolo contendere to, or has been convicted of, a crime that would be grounds for license suspension or revocation, the court may temporarily suspend the attorney from the practice of law regardless of the pendency of an appeal. Not fewer than 20 days prior to the effective date of the suspension, the attorney must be notified in writing, directed by restricted certified mail to the attorney's last address

as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and at a designated place to show cause why such suspension should not take place. Any hearing will be informal and the strict rules of evidence will not apply. The court's decision may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time.

- **34.15(2)** Any attorney suspended pursuant to this rule must refrain during the suspension from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. The suspended attorney may, however, act as a fiduciary for an estate, conservatorship, or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.
- **34.15(3)** For good cause shown, the supreme court may set aside an order temporarily suspending an attorney from the practice of law as provided above upon the attorney's application and a hearing in accordance with rule 34.25, but such reinstatement does not terminate a pending disciplinary proceeding or bar later proceedings against the attorney.
- **34.15(4)** An attorney temporarily suspended under the provisions of this rule must be promptly reinstated upon the filing of sufficient evidence disclosing that the underlying conviction of a crime has been finally reversed or set aside, but such reinstatement does not terminate a pending disciplinary proceeding or bar later proceedings against the attorney.
- **34.15(5)** The clerk of any court in this state in which an attorney has pled guilty or nolo contendere to or been convicted of a crime as set forth above must, within 10 days, transmit a certified record of the proceedings to the supreme court clerk.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018] COMMENT: Rule 34.15 formerly appeared as Iowa Court Rule 35.15. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.16 Suspension or revocation on consent.

- **34.16(1)** An attorney subject to investigation by the disciplinary board or the Client Security Commission or subject to a pending grievance proceeding involving allegations of misconduct subject to disciplinary action may acquiesce to suspension or revocation but only by filing with the grievance commission an affidavit stating that the attorney consents to suspension of not more than a specific duration or to revocation. If a grievance proceeding is already scheduled for hearing, any such affidavit must be filed at least 15 days before the scheduled hearing date unless the 15-day limit is waived by the panel president. All affidavits filed under this rule must indicate the following:
- a. The consent is freely and voluntarily given without any coercion or duress and with full recognition of all implications of the consent.
- b. The attorney is aware of a pending investigation or proceeding involving allegations that there exist grounds for discipline, the nature of which will be specifically set forth.
 - c. The attorney acknowledges the material facts of the alleged misconduct are true.
- d. In the event proceedings were instituted upon the matters under investigation, or if existing proceedings were pursued, the attorney could not successfully defend against the allegations.
- e. The facts admitted in the affidavit would likely result in the suspension or revocation of the attorney's license to practice law.
 - f. Any matters in mitigation or aggravation of the alleged misconduct.
 - g. Consent to any alternative or additional sanctions as provided in Iowa Court Rule 36.19.
- **34.16(2)** The disciplinary board or Client Security Commission must file a response to the affidavit, indicating whether it believes the misconduct admitted in the affidavit would likely result in suspension or revocation of the attorney's license to practice law and citing any legal authorities supporting its conclusion.
- **34.16(3)** Upon receipt of the affidavit and response, the grievance commission must file the affidavit and response with the supreme court clerk. The supreme court may enter an order suspending the attorney's license to practice law for a period no greater than the stipulated duration or disbarring the attorney on consent, unless the court determines the misconduct admitted in the affidavit is insufficient to support the discipline to which the attorney has consented. The supreme court may also order any of the alternative or additional sanctions to which the respondent has consented. If the supreme court determines the affidavit does not set forth facts that support imposition of the discipline to which the attorney has consented, it may either enter an order

allowing the parties to supplement the affidavit or an order declining to accept the affidavit. An order declining to accept the affidavit does not bar further disciplinary proceedings against the attorney, and does not preclude the supreme court from imposing any sanction the attorney's conduct warrants upon review of a grievance commission determination.

34.16(4) Any order suspending or disbarring an attorney on consent is a matter of public record. If the supreme court enters an order of suspension or disbarment, the affidavit and response will be made available to the public upon request.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.16 formerly appeared as Iowa Court Rule 35.16. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.17 Disability suspension.

- **34.17(1)** In the event an attorney is at any time in any jurisdiction duly adjudicated a mentally incapacitated person, or a person with a substance-related disorder, or is committed to an institution or hospital for treatment thereof, the clerk of any court in Iowa in which the adjudication or commitment is entered must, within 10 days, certify the adjudication or commitment to the supreme court clerk.
- 34.17(2) Upon the filing of an adjudication or commitment certificate or a like certificate from another jurisdiction, upon a supreme court determination pursuant to a sworn application on behalf of a local bar association, or upon a disciplinary board determination that an attorney is not discharging professional responsibilities due to disability, incapacity, abandonment of practice, or disappearance, the supreme court may enter an order suspending the attorney's license to practice law in this state until further order of the court. Not fewer than 20 days prior to the effective date of the suspension, the attorney or the attorney's guardian, and the director of the institution or hospital to which the attorney has been committed, if any, must be notified in writing, directed by restricted certified mail to the attorney's last address as shown in the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and place and show cause why such suspension should not take place. Upon a showing of exigent circumstances, emergency, or other compelling cause, the supreme court may reduce or waive the 20-day period and the effective date of action set forth above. Any hearing will be informal and the strict rules of evidence will not apply. The court's decision may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time. A copy of the order must be given to the suspended attorney or to the attorney's guardian and to the director of the institution or hospital to which the suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.
- **34.17(3)** Upon the voluntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.9112, or upon the involuntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.2106(3)(a), the supreme court may enter an order suspending the retired judicial officer's license to practice law in this state in the event the underlying disability prevents the discharge of an attorney's professional responsibilities. The suspension is effective until further order of the supreme court. A copy of the suspension order must be given to the suspended attorney or to the attorney's guardian and to the director of the institution or hospital to which the suspended attorney is committed, if any, by restricted mail or personal service as the supreme court may direct.
- **34.17(4)** Any attorney suspended pursuant to rule 34.17 must refrain, during the suspension, from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. The suspended attorney may, however, act as a fiduciary for an estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.
- **34.17(5)** No attorney suspended due to disability under rule 34.17 may engage in the practice of law in this state until reinstated by supreme court order.

34.17(6)

a. Upon being notified of the suspension of an attorney, the chief judge in the judicial district in which the attorney practiced may appoint the Client Security Commission, an attorney, or attorneys to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. In appointing a

trustee, the chief judge will give due regard to any designation or standby nomination made under the provisions of Iowa Court Rule 39.18 and to the recommendation of the office of professional regulation. Any trustee appointment other than the Client Security Commission itself is subject to supreme court confirmation. The appointed attorney serves as a special member of the Client Security Commission for the purposes of the appointment.

- b. While acting as trustee, the trustee must not serve as an attorney for the clients of the suspended attorney or other affected persons. The trustee also must not examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee must, as to such matters, protect the privacy interests of the suspended attorney's clients by prompt recusal or refusal of employment.
- c. The trustee may seek reasonable fees and reimbursement of costs of the trust from the suspended attorney. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, will determine the merits of the claim and the amount of any payment from the fund.
- d. When the suspended attorney is reinstated to practice law in this state, all pending representation of clients is completed, or the purposes of the trust are accomplished, the trustee must apply to the appointing chief judge for an order terminating the trust. Upon termination of the trusteeship or upon request of the Client Security Commission, any undistributed client files may be ordered immediately destroyed.
- e. Trustee fees and expenses paid by the Client Security Commission must be assessed to the suspended attorney by the Client Security Commission and are due upon assessment. Trustee fees and expenses assessed under this rule must be paid as a condition of reinstatement and may be collected by the Client Security Commission as part of the annual statement and assessment required by rule 39.8.
- **34.17(7)** Any suspended attorney is entitled to apply for reinstatement to active status once each year or upon the expiration of such shorter intervals as the supreme court may provide. The supreme court may reinstate an attorney suspended due to disability upon a showing by clear and convincing evidence that the attorney's disability has been removed and the attorney is fully qualified to resume the practice of law. Upon the attorney's filing of an application for reinstatement, the supreme court may take or direct any action deemed necessary or proper to determine whether the suspended attorney's disability has been removed, including an examination of the attorney by qualified medical experts as the supreme court may designate. In its discretion the supreme court may direct that the attorney pay the expenses of the examination.
- **34.17(8)** The filing of an application for reinstatement to active status by an attorney suspended due to disability constitutes a waiver of the doctor-patient privilege regarding any treatment of the attorney during the period of the disability. The attorney must also set forth in the application for reinstatement the name of every psychiatrist, psychologist, physician, hospital, or any other institution by whom or in which the attorney has been examined or treated since the disability suspension. The attorney must also furnish to the supreme court written consent that the psychiatrist, psychologist, physician, hospital, or other institution may divulge any information and records the supreme court or any court-appointed medical experts request.
- **34.17(9)** When an attorney has been suspended due to disability and thereafter the attorney is judicially held to be competent or cured, the supreme court may dispense with further evidence regarding removal of the disability and may order reinstatement to active status upon such terms as the court deems reasonable.

[Court Order January 26, 2016, effective April 1, 2016; November 18, 2016, effective December 25, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.17 formerly appeared as Iowa Court Rule 35.17. It is amended to provide for recovery of trustee fees and costs the Client Security Commission pays through the annual assessment and reporting process and also as a condition of reinstatement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.18 Death, suspension, or disbarment of practicing attorney.

34.18(1) Upon a sworn application on behalf of a local bar association, an attorney or entity designated or nominated on a standby basis as described in Iowa Court Rule 39.18, the Client Security Commission, or the disciplinary board showing that a practicing attorney has died or has been suspended or disbarred from the practice of law and that a reasonable necessity exists, the

chief judge in the judicial district in which the attorney practiced may appoint an attorney or the Client Security Commission to serve as trustee to inventory the attorney's files, sequester client funds, and take any other appropriate action to protect the interests of the attorney's clients and other affected persons. In appointing a trustee, the chief judge will give due regard to any designation or standby nomination made under the provisions of rule 39.18 and the recommendation of the office of professional regulation. Trusteeships are specially assigned to the appointing chief judge, who will hear and rule upon all matters therein. The appointment of an attorney as trustee is subject to supreme court confirmation. The appointed attorney serves as a special member of the Client Security Commission for the purposes of the appointment.

- **34.18(2)** While acting as trustee, the trustee must not serve as an attorney for the clients of the disabled attorney or other affected persons. The trustee also must not examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. If the trustee acquires such information inadvertently, the trustee must, as to such matters, protect the privacy interests of the suspended attorney's clients by prompt recusal or refusal of employment.
- **34.18(3)** A trustee who seeks compensation for services rendered must first seek reasonable fees and reimbursement of costs of the trust from the deceased attorney's estate or the attorney whose license to practice law has been suspended or revoked. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, must determine the merits of the claim and the amount of any payment from the fund.
- **34.18(4)** When all pending representation of clients is completed or the purposes of the trust are accomplished, the trustee must apply to the appointing chief judge for an order terminating the trust. Upon termination of the trusteeship or upon request of the Client Security Commission, any undistributed client files may be ordered immediately destroyed.
- **34.18(5)** Trustee fees and expenses paid by the Client Security Commission must be assessed to the deceased, suspended, relinquished, or disbarred attorney by the Client Security Commission and are due upon assessment. Trustee fees and expenses assessed under this rule must be paid as a condition of reinstatement and may be collected by the Client Security Commission as part of the annual statement and assessment required by Iowa Court Rule 39.8.

[Court Order January 26, 2016, effective April 1, 2016; November 18, 2016, effective December 25, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; July 24, 2019, effective August 1, 2019; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.18 formerly appeared as Iowa Court Rule 35.18. It is amended to provide for recovery of trustee fees and costs the Client Security Commission pays through the annual assessment and reporting process and also as a condition of reinstatement. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.19 Reciprocal discipline.

- **34.19(1)** Any attorney admitted to practice in this state, upon being subjected to professional disciplinary action in another jurisdiction or in any federal court, must promptly advise the disciplinary board in writing of such action. Upon being informed that an attorney admitted to practice in this state has been the subject of professional discipline in another jurisdiction or any federal court, the disciplinary board must obtain a certified copy of such disciplinary order and file it in the office of the supreme court clerk.
- **34.19(2)** Upon receipt of a certified copy of an order disclosing that an attorney admitted to practice in this state has been disciplined in another jurisdiction or any federal court, the supreme court will promptly give notice of the discipline by restricted certified mail or personal service directed to the attorney containing: a copy of the disciplinary order from the other jurisdiction or federal court and an order directing that the disciplined attorney file in the supreme court, within 30 days after receipt of the notice, any objection that imposition of identical discipline in this state would be too severe or otherwise unwarranted, giving specific reasons. A like notice will be sent, by ordinary mail, to the disciplinary board, which has the right to object on the ground that the imposition of identical discipline in this state would be too lenient or otherwise unwarranted. If either party objects to imposition of identical discipline, the matter will be set for hearing before three or more justices of the supreme court, and the parties will be notified by restricted certified mail at least 10 days prior to the date set. At the hearing, a certified copy of the testimony, transcripts, exhibits, affidavits, and other matters introduced into evidence in the other jurisdiction or federal court must be admitted into evidence as well as any findings of fact, conclusions of law, decisions,

and orders. Any such findings of fact are conclusive and not subject to readjudication. The supreme court may enter such findings, conclusions, and orders that it deems appropriate.

- **34.19(3)** If neither party objects within 30 days from service of the notice, the supreme court may impose the identical discipline, unless the court finds that on the face of the record upon which the discipline is based it clearly appears that any of the following are true:
- a. The disciplinary procedure was so lacking in notice and opportunity to be heard as to constitute a deprivation of due process.
- b. There was such infirmity of proof establishing misconduct as to give rise to the clear conviction that the supreme court could not, conscientiously, accept as final the conclusion on that subject.
 - c. The misconduct established warrants substantially different discipline in this state.
- **34.19(4)** If the supreme court determines that any such factors exist, it may enter an appropriate order. Rule 34.25 applies to any subsequent reinstatement or reduction or stay of discipline. [Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 34.19 formerly appeared as Iowa Court Rule 35.19. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.20 Suspension of attorney's license for failure to comply with a child support order. An attorney who fails to comply with a child support order may be subject to a suspension of the attorney's license to practice law in Iowa.

- **34.20(1)** *Procedure.* Any certificate of noncompliance with a child support order that involves an attorney must be filed by the Child Support Recovery Unit (CSRU) with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the office of professional regulation of the supreme court must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:
- a. The attorney's license to practice law will be suspended unless the attorney causes the CSRU to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.
- b. The attorney may challenge the CSRU's issuance of the certificate of noncompliance under this rule only by filing an application for hearing with the district court in the county in which the underlying child support order is filed.
- c. The attorney must file the application for hearing with the district court clerk within 30 days of the date of issuance of the notice and must provide copies of the application to the CSRU and the office of professional regulation by regular mail.
- d. Filing of the application automatically stays the supreme court's suspension based on the certificate of noncompliance.
- e. The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

34.20(2) *District court hearing.*

- a. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the CSRU, and the office of professional regulation.
- b. Prior to the hearing, the district court must receive a certified copy of the CSRU's written decision and certificate of noncompliance from the CSRU and a certified copy of the notice from the office of professional regulation.
- c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.
- d. The district court's scope of review is limited to determining if there has been a mistake of fact relating to the attorney's child support delinquency. The court will not consider visitation or custody issues and will not modify the child support order.
- e. If the district court concludes the CSRU erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of certificate of noncompliance, the district court will order the CSRU to file a withdrawal of certificate of noncompliance with the office of professional regulation.
- **34.20(3)** *Noncompliance certificate withdrawn.* If the CSRU files a withdrawal of certificate of noncompliance, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules and has paid a \$100 reinstatement fee.
- **34.20(4)** Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share

information with the CSRU for the sole purpose of allowing the CSRU to identify attorneys subject to enforcement under Iowa Code chapter 252J or 598.

[Court Order January 26, 2016, effective April 1, 2016; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.20 formerly appeared as Iowa Court Rule 35.20. [Court Order January 26, 2016, effective April 1, 2016]

- Rule 34.21 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. An attorney who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission (aid commission) may be subject to suspension of the attorney's license to practice law in Iowa.
- **34.21(1)** *Procedure.* The aid commission must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the office of professional regulation must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:
- a. The attorney's license to practice law will be suspended unless the attorney causes the aid commission to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.
- b. The attorney must contact the aid commission to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.
- c. The attorney may challenge the aid commission's issuance of the certificate of noncompliance under this rule only by filing an application for hearing with the district court in the attorney's county of residence.
- d. The attorney must file the application for hearing with the district court clerk within 30 days of the date of issuance of the notice must provide copies of the application to the aid commission and the office of professional regulation by regular mail.
- e. Filing of the application automatically stays the supreme court's suspension based on the certificate of noncompliance.
- f. The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

34.21(2) District court hearing.

- a. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the aid commission, and the office of professional regulation.
- b. Prior to the hearing, the district court must receive a certified copy of the aid commission's written decision, a certificate of noncompliance from the commission, and a certified copy of the notice from the office of professional regulation.
- c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.
- d. The district court's scope of review is limited to determining if there has been a mistake of fact relating to the attorney's delinquency.
- e. If the district court concludes the aid commission erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court will order the aid commission to file a withdrawal of the certificate of noncompliance with the office of professional regulation.
- **34.21(3)** *Noncompliance certificate withdrawn.* If the aid commission files a withdrawal of certificate of noncompliance, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules and has paid a \$100 reinstatement fee.
- **34.21(4)** Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.21 formerly appeared as Iowa Court Rule 35.21. [Court Order January 26, 2016, effective April 1, 2016]

- Rule 34.22 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. An attorney who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU) may be subject to suspension of the attorney's license to practice law in Iowa.
- **34.22(1)** *Procedure.* The CCU must file any certificate of noncompliance that involves an attorney with the office of professional regulation at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the office of professional regulation must issue a notice to the attorney. The notice will be sent to the attorney's address on file with the office of professional regulation. The following rules apply and must be recited in the notice:
- a. The attorney's license to practice law will be suspended unless the attorney causes the CCU to file a withdrawal of the certificate of noncompliance within 30 days of the date of issuance of the notice.
- b. The attorney must contact the CCU to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.
- c. The attorney may challenge the CCU's issuance of the certificate of noncompliance under this rule only by filing an application for hearing with the district court in the county where the majority of the liability was incurred.
- d. The attorney must file the application for hearing with the clerk of the district court within 30 days of the date of issuance of the notice and must provide copies of the application to the CCU and the office of professional regulation by regular mail.
- e. Filing of the application automatically stays the supreme court's suspension based on the certificate of noncompliance.
- f. The provisions of this rule prevail over those of any other statute or rule to the extent they may conflict.

34.22(2) *District court hearing.*

- a. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. The district court clerk must mail copies of the order setting hearing to the attorney, the CCU, and the office of professional regulation.
- b. Prior to the hearing, the district court must receive a certified copy of the CCU's written decision and certificate of noncompliance from the CCU and a certified copy of the notice from the office of professional regulation.
- c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance will be lifted.
- d. The district court's scope of review is limited to demonstration of the amount of the liability owed or the identity of the person.
- e. If the district court concludes the CCU erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court will order the CCU to file a withdrawal of the certificate of noncompliance with the office of professional regulation.
- **34.22(3)** *Noncompliance certificate withdrawn.* If a withdrawal of the certificate of noncompliance is filed, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will reinstate the attorney's license to practice law if the attorney is otherwise eligible under supreme court rules and has paid a \$100 reinstatement fee.
- **34.22(4)** Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the office of professional regulation is authorized to share information with the CCU for the sole purpose of allowing the CCU to identify attorneys subject to enforcement under Iowa Code chapter 272D.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.22 formerly appeared as Iowa Court Rule 35.22. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.23 Suspension generally.

34.23(1) In the event the supreme court suspends an attorney's license to practice law, the suspension continues for the minimum time specified in such order and until the supreme court approves the attorney's written application for reinstatement, if such application is required. In the order of suspension or by order at any time before reinstatement, the supreme court may require the suspended attorney to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

34.23(2)

- a. An attorney whose license has been suspended for a period not exceeding 60 days is not required to comply with the procedure set forth in rule 34.25 but instead must file an application for automatic reinstatement at least seven (7) days before the attorney's date of reinstatement, certifying that:
- (1) The attorney has completed all of the requirements set forth in the order(s) that suspended the attorney.
- (2) All costs assessed under Iowa Court Rule 36.24 are paid and the reporting and fee payment requirements of Iowa Court Rules 39.14(2), 39.17, and 41.10(2) are completed.
 - (3) The attorney has complied with the notification requirements of rule 34.24.
- (4) The attorney is not subject to any denials of reinstatement pursuant to rule 34.25(18), 34.25(19), or 34.25(20).
- b. The disciplinary board or Client Security Commission may file and serve within the suspension period an objection to the automatic reinstatement of the attorney. The filing of an objection stays the automatic reinstatement until the supreme court orders otherwise. If the disciplinary board or Client Security Commission files an objection, the supreme court will set the matter for hearing and the supreme court clerk must enter written notice in conformance with rule 34.25, except that the court may waive the requirement of a 60-day waiting period prior to the hearing date.
- c. Automatic reinstatement will not be ordered until all costs assessed under Iowa Court Rule 36.24 are paid and the reporting and fee payment requirements of rules 39.14(2), 39.17, and 41.10(2) are completed.
- **34.23(3)** Any attorney suspended must refrain during such suspension from all facets of ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; acting as a fiduciary; and when possible, advertising of the attorney's services or holding out to the public that he or she is a licensed attorney. Such suspended attorney may, however, act as a fiduciary for an estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.
- **34.23(4)** Nothing in this rule precludes an attorney, law firm, or professional association from employing a suspended attorney to perform such limited services as laypersons may ethically perform under all of the following conditions:
- a. Notice of employment, together with a full job description, must be provided by the employer and suspended attorney to the disciplinary board before employment commences.
- b. The employer and suspended attorney must verify and submit informational reports quarterly to the disciplinary board certifying that no aspect of the suspended attorney's work has involved the unauthorized practice of law.
- c. A suspended attorney must not have direct or personal association with any client and must not disburse or otherwise handle funds or property of a client.

 [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018;

October 24, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 34.23 formerly appeared as Iowa Court Rule 35.13. Rule 34.23(2) is amended from former rule 35.13(2) to make clear that satisfaction of reinstatement requirements with the Commission on Continuing Legal Education and the Client Security Commission is a condition precedent to automatic reinstatement, as it is for reinstatement upon application. The rule also is amended to require curtailment of advertising, to the extent possible, during the period of suspension. [Court Order January 26, 2016, effective April 1, 2016]

Rule 34.24 Notification of clients and counsel.

- **34.24(1)** In every case in which an attorney is ordered to be disbarred or suspended, the attorney must do all of the following:
- a. Within 15 days notify in writing the attorney's clients in all pending matters of the need to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney.
- b. Within 15 days deliver to all clients represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place for obtaining the papers and other property, calling attention to any urgency for obtaining the papers or other property.
 - c. Within 30 days refund any part of any fees paid in advance that have not been earned.
- d. Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties of the attorney's disbarment or suspension and consequent disqualification to act as an attorney after the effective date of such discipline or transfer to disability inactive status.

- e. Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.
 - f. Keep and maintain records of the steps taken to accomplish the foregoing.
- g. Within 30 days file with the disciplinary board copies of each notice sent pursuant to the requirements of this rule and proof of complete performance of the requirements. This is a condition for reinstatement to practice.
- **34.24(2)** The times set forth in rules 34.24(1)(c) and 34.24(1)(g) are reduced to 15 days for respondents who are exempted from filing an application for reinstatement under rule 34.23. [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 34.24 formerly appeared as Iowa Court Rule 35.23. [Court Order January 26, 2016, effective April 1, 2016]

REINSTATEMENT AND READMISSION

Rule 34.25 Procedure on application for reinstatement or readmission. Any person whose certificate to practice law in this state has been suspended or revoked may apply for reinstatement or readmission subject to the following rules.

34.25(1) *Application*.

- a. A proceeding for reinstatement to the practice of law in Iowa must be commenced by written application to the supreme court filed with the supreme court clerk not more than 60 days prior to expiration of the suspension period.
- b. The application must state the date of the applicant's original admission, the date and duration of suspension, and that the applicant has complied in all respects with any orders or judgments of the supreme court relating to the suspension.
- c. The application must be verified by the oath of the applicant as to the truth of the statements made in the application.
- d. The applicant must also submit to the supreme court satisfactory proof that the applicant, at the time of the application, is of good moral character and in all respects worthy of the right to practice law. The application must be accompanied by the recommendation of at least three reputable attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the suspension, the applicant must also file a recommendation from three attorneys in good standing and currently practicing law in the district where the applicant resided at the time of suspension. The required recommendations may not be from judges or magistrates.
- e. The applicant must also submit satisfactory proof that the applicant, at the time of the application, has filed all reports, paid all fees, and completed all continuing legal education requirements of chapters 39, 41, and 42 of the Iowa Court Rules.
- f. The applicant must submit satisfactory proof that the Clients' Security Trust Fund of the Bar of Iowa is repaid in full for all client security conduct or that the Client Security Commission has approved a repayment plan.
- **34.25(2)** *Procedure.* Upon filing of the application and recommendations with the supreme court clerk, the clerk must give written notice containing the date of the suspension, the date of filing the application, and the date of the hearing set by the supreme court, which will be at least 60 days after the filing of such application for reinstatement, to the following persons:
 - a. The attorney general.
 - b. The county attorney where the applicant resides.
 - c. The county attorney where the applicant resided at the time of suspension.
 - d. The chair of the Iowa Board of Law Examiners.
 - e. The director of attorney discipline of the office of professional regulation.
 - f. Each judge of the district in which the applicant resided at the time of suspension.
 - g. The president of a local bar association where the applicant resides.
- h. The president of a local bar association where the applicant resided when the certificate was suspended.
 - i. The president of The Iowa State Bar Association.
- **34.25(3)** Written statements. After receipt of the notice and before the date fixed for hearing, the persons provided notice in rule 34.25(2) may submit to the supreme court clerk written statements of fact and comments regarding the current fitness of the applicant to practice law.
- **34.25(4)** Notices of witnesses and exhibits. At least 14 days prior to the scheduled hearing date, the applicant and the disciplinary board must provide notice to the court and the opposing party of the

names and expected testimony of any witnesses they intend to produce and must file and serve copies of any exhibits they intend to introduce at the hearing. The opposing party must provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The supreme court may waive these deadlines only upon good cause shown.

- **34.25(5)** Hearing. The reinstatement hearing will be held at the time and place the supreme court designates. The applicant bears the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of suspension. The hearing will be public unless the supreme court orders otherwise upon motion of a party. The hearing will be informal and the strict rules of evidence will not apply. The supreme court may impose reasonable time limits on the length of the hearing.
- **34.25(6)** *Decision.* The supreme court will issue its decision as soon as practicable after the hearing. The supreme court may require the applicant to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.
- **34.25**(7) Readmission after revocation. In the event the supreme court revokes an attorney's license to practice law, the attorney is not eligible to apply for readmission until at least five years after the date of revocation. For purposes of rule 34.25, "revoked attorney" includes an attorney whose license to practice law has been revoked or an attorney who has been disbarred. Similarly, "revocation" includes "disbarment" and "revoked" includes "disbarred."
 - **34.25(8)** *Pre-filing requirements.* Prior to filing the application, the revoked attorney must:
- a. File the attorney's character and fitness application with the National Conference of Bar Examiners (NCBE) and pay the NCBE's application fee.
 - b. Pay an administrative fee of \$525 to the Iowa Board of Law Examiners.
- **34.25(9)** Filing and contents of application. A revoked attorney's application for readmission must:
 - a. Be filed with the supreme court clerk and be served on the Iowa Board of Law Examiners.
- b. State the date of the applicant's original admission, the date of revocation, and that the applicant has complied in all respects with rule 34.24 and any supreme court orders or judgments relating to the revocation.
- c. Include satisfactory proof that the applicant is of good moral character and is in all respects worthy of readmission to the bar. The applicant must provide a detailed affidavit describing the applicant's personal, educational, and work history since the date of revocation. The application must be accompanied by the recommendation of at least three reputable attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the revocation, the applicant must also file a recommendation from three reputable attorneys currently practicing law in the district where the applicant resided at the time of revocation. The required recommendations may not be from judges or magistrates.
- d. Include satisfactory proof that the applicant, at the time of the application, has paid all fees required by the provisions of chapters 39, 41, and 42 of the Iowa Court Rules.
- e. Include satisfactory proof that the Client Security Trust Fund has been repaid in full, or that the Client Security Commission has approved a repayment plan, for all client security claim payments paid from the Client Security Trust Fund under Iowa Court Rule 39.9 based on the applicant's conduct.
- f. Include satisfactory proof that the applicant, at the time of the application, has paid all costs assessed against the applicant under rule 36.24.
- **34.25(10)** *Iowa Board of Law Examiners' report.* After the application for readmission is filed with the supreme court clerk, the Iowa Board of Law Examiners will file a report and recommendation with the supreme court regarding the applicant's character and fitness.
- **34.25(11)** Supreme court actions on application. Upon review of the application for readmission from a revoked attorney, the supreme court may summarily deny the application, request further information, or set a hearing date and direct the supreme court clerk to give the notice provided under rule 34.25(12). The court may appoint a special master or a hearing panel to conduct the hearing. The hearing date must in no case be fewer than 60 days after the filing of the application for readmission. Any order denying readmission may state whether the attorney is allowed to file a future application and, if so, the minimum amount of time before the application may be filed.
- **34.25(12)** *Procedure.* Upon direction of the supreme court, the supreme court clerk must give written notice of the revoked attorney's application for readmission containing the date of the

revocation, the date of filing the application, and the date of the hearing set by the court, if any, to the following persons:

- a. The attorney general.
- b. The county attorney where the applicant resides.
- c. The county attorney where the applicant resided at the time of revocation.
- d. The chair of the Iowa Board of Law Examiners.
- e. The director of attorney discipline of the office of professional regulation.
- f. Each judge of the district in which the applicant resided at the time of revocation.
- g. The president of a local bar association where the applicant resides.
- h. The president of a local bar association where the applicant resided at the time of revocation.
- i. The president of The Iowa State Bar Association.
- 34.25(13) Written statements. Such persons, after receipt of the notice and before the date fixed for hearing, may submit to the supreme court clerk written statements of fact and comments regarding the applicant's current fitness to practice law.
- 34.25(14) Notices of witnesses and exhibits. At least 14 days prior to the scheduled hearing date, the applicant and the disciplinary board must provide the supreme court or the special master or hearing panel, if applicable, and the opposing party notice of the names and expected testimony of any witnesses they intend to produce, and they must file and serve copies of any exhibits they intend to introduce at the hearing. The parties may provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. The court, or the special master or hearing panel, if applicable, may waive these deadlines only upon good cause shown.
- 34.25(15) Hearing. The readmission hearing will be held at the time and place the supreme court designates. The applicant bears the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of revocation. The hearing will be public unless the supreme court orders otherwise upon motion of a party. The hearing will be informal, and strict rules of evidence will not apply. The supreme court may impose reasonable time limits on the length of the hearing. The hearing must be recorded.

34.25(16) *Decision.*

- a. The supreme court's decision will be determined by majority vote of those justices participating in the proceeding. Any special master or hearing panel appointed to conduct a hearing must file a report containing findings of fact with the supreme court clerk within 30 days after the hearing. The court's review of the record made before the special master or hearing panel will be de novo. An attorney's readmission to practice in another jurisdiction following revocation in Iowa is not binding on the decision of the supreme court on any application for readmission to practice in Iowa. The decision rests in the sole discretion of the supreme court.
- b. The supreme court in its discretion may place conditions on readmission, including, but not limited to, passing the Iowa bar examination. If the supreme court does not require the applicant to pass the bar examination, it will impose a requirement that the applicant must report up to 100 hours of continuing legal education. If the applicant refuses or fails to perform any of the conditions, the court may enter an order summarily denying the application or revoking the attorney's license, if admitted, without further hearing. The applicant must post a scaled score of at least 80 on the Multistate Professional Responsibility Exam (MPRE) as a condition of readmission. The MPRE score must be from a test taken no longer than three years prior to the date of filing of the application for readmission. An applicant may take the MPRE after the court's readmission decision, but the attorney will not be readmitted until the required score is filed.
- 34.25(17) Applicability of rules to attorneys permanently enjoined from practicing law in Iowa. Rules 34.25(7) through 34.25(16) also apply to attorneys not licensed in Iowa whom the Iowa Supreme Court has enjoined from practicing law in Iowa on a permanent basis. Such attorneys who seek to have the injunction lifted must follow the procedures set forth for revoked attorneys in those rules, and their applications will be processed in the same manner.
- **34.25(18)** Denial of reinstatement for failure to comply with a child support order. An attorney who fails to comply with a child support order may be denied reinstatement of the attorney's license to practice law in Iowa.
- a. Procedure. The Child Support Recovery Unit (CSRU) may file with the office of professional regulation any certificate of noncompliance that involves an attorney. Rule 34.20(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

- b. District court hearing. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.20(2) governs all matters pertaining to the hearing.
- c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court will curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.
- d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the CSRU for the sole purpose of allowing the CSRU to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.
- 34.25(19) Denial of reinstatement for default on student loan obligation. An attorney who defaults on an obligation owed to or collected by the Iowa College Student Aid Commission (aid commission) may be denied reinstatement of the attorney's license to practice law in Iowa.
- a. Procedure. The aid commission may file with the office of professional regulation any certificate of noncompliance that involves an attorney. Rule 34.21(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.
- b. District court hearing. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.21(2) governs all matters pertaining to the hearing.
- c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.
- d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.
- **34.25(20)** Denial of reinstatement for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. An attorney who defaults on an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue (CCU) may be denied reinstatement of the attorney's license to practice law in Iowa.
- a. Procedure. The CCU may file with the office of professional regulation any certificate of noncompliance that involves an attorney. Rule 34.22(1) governs the procedure, including notice to the attorney, except that the notice must refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.
- b. District court hearing. Upon receipt of an attorney's application for hearing, the district court clerk must schedule a hearing to be held within 30 days of the date of filing of the application. Rule 34.22(2) governs all matters pertaining to the hearing.
- c. Noncompliance certificate withdrawn. If a withdrawal of a certificate of noncompliance is filed, the supreme court will halt any proceedings pursuant to the certificate of noncompliance or, if necessary, will immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.
- d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the supreme court clerk and the office of professional regulation are authorized to share information with the aid commission for the sole purpose of allowing the aid commission to identify attorneys subject to enforcement under Iowa Code chapter 261.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021] COMMENT: Rule 34.25 formerly appeared as Iowa Court Rule 35.14. [Court Order January 26, 2016, effective April 1, 2016]

CHAPTER 36 GRIEVANCE COMMISSION RULES OF PROCEDURE

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Form 1:

Notice of Complaint

CHAPTER 36 GRIEVANCE COMMISSION RULES OF PROCEDURE

Rule 36.1 Complaints.

36.1(1) Any complaint of the Iowa Supreme Court Attorney Disciplinary Board (disciplinary board) must be filed with the Iowa Supreme Court Grievance Commission (grievance commission) in the name of the disciplinary board as the complainant and against the attorney named in the charges as the respondent. The disciplinary board must prosecute the complaint and charges before the grievance commission until final disposition.

36.1(2) Every complaint filed against an attorney with the grievance commission by the disciplinary board must be signed and sworn to by the disciplinary board chair and served upon the attorney as provided in rule 36.5. The complaints must be sufficiently clear and specific in their charges to reasonably inform the attorney against whom the complaint is made of the misconduct the attorney is alleged to have committed.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018] COMMENT: Rule 36.1(1) formerly appeared as Iowa Court Rule 36.3. Rule 36.1(2) formerly appeared at Iowa Court Rule 35.5. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.2 Docket; complaints; filings.

36.2(1) The grievance commission clerk must maintain a permanent docket of complaints in substantially the same manner as the records relating to civil actions in district court. The clerk must separately number and file each complaint. All subsequent answers, motions, applications, petitions, pleadings, orders, or other related documents will be made part of the file.

36.2(2) The grievance commission clerk must file and preserve all complaints, answers, motions, applications, petitions, pleadings, orders, records, reports, exhibits, evidence, and other documents or things filed under this chapter or received in evidence in a hearing before the grievance commission in Des Moines, Iowa, and the files must at all times be available to the supreme court or anyone the court designates.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 36.2(1) formerly was included in Iowa Court Rule 36.4. Rule 36.2(2) formerly appeared at Iowa Court Rule 35.5. Rule 36.2 is amended to conform an internal reference to the new rule numbers and to reduce duplication with rule 36.4. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.3 Report of filing. The grievance commission clerk must report the filing of each complaint to the grievance commission chair, who must by written order direct that the grievance commission as a whole, or a specified division of the commission, hear each complaint. [Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 36.3 formerly appeared as Iowa Court Rule 36.5. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.4 Grievance commission; divisions. Grievance commission commissioners may act as a body or in such divisions as the grievance commission chair may direct. Each division must consist of five members. The chair must designate the personnel of each division for each complaint as required. The chair must appoint one member to serve as division president. The chair will select two additional members as alternates.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018] **COMMENT:** Rule 36.4 formerly appeared as Iowa Court Rule 36.2. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.5 Notice to respondent.

36.5(1) Upon the filing of a complaint, the grievance commission clerk must serve a written notice of the complaint, a copy of the complaint, and a copy of chapter 36 of the Iowa Court Rules upon the respondent.

36.5(2) The grievance commission clerk may serve notice of the complaint by personal service in the manner of an original notice in civil suits or by restricted certified mail to the respondent's last address as shown by records accessible to the supreme court. The notice must inform the respondent of the 20-day period following completed service of the notice to file a written answer to the complaint. Written return of service must be made by the person making the service if by personal service, or by the grievance commission clerk with postal receipts attached to the return if by restricted certified mail, and the return of service must be filed. Service is complete on the date of personal service or on the date shown by the postal receipt of delivery of the notice to the respondent or refusal of the

respondent to accept delivery. The notice is sufficient if it substantially complies with the form that accompanies these rules.

36.5(3) If service cannot be obtained pursuant to rule 36.5(2), the grievance commission clerk may serve notice of the complaint on the supreme court clerk, who is appointed to receive service on behalf of attorneys subject to Iowa's disciplinary authority. Iowa R. Prof'l Conduct 32:8.5 cmt. [1]. Service upon the supreme court clerk is deemed to be completed service of the notice on the respondent. Simultaneously with serving notice on the supreme court clerk, the grievance commission clerk must forward the notice and a copy of the complaint to the respondent by restricted certified mail to the respondent's last address as shown by records accessible to the supreme court. The notice must instruct the respondent to file a written answer to the complaint within 20 days after completed service of the notice. The grievance commission clerk must file with the supreme court clerk an affidavit attesting that notice was sent to the respondent by restricted certified mail. [Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 36.5 formerly appeared as Iowa Court Rule 36.6. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.6 Filing and service of documents. All answers, motions, applications, petitions, and pleadings in connection with a complaint must be filed with the clerk of the grievance commission. The grievance commission clerk must send copies to the parties and the grievance commission chair if the commission is sitting as a whole or to the grievance commission division president to whom the complaint has been referred. If the parties are participating in the electronic filing option, then all filings and mailings under this chapter may be done electronically using that system. [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; October 24, 2019, effective January 1, 2020]

COMMENT: Rule 36.6 formerly appeared as Iowa Court Rule 36.11. It is amended to conform an internal reference to the new rule numbers and reduce duplication with rule 36.2. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.7 Answer. The respondent must file a written answer to the complaint within 20 days from the completed service of notice. For good cause shown upon written application, the grievance commission may grant an extension of time for filing an answer. If the respondent fails or refuses to file an answer within the time specified, the allegations of the complaint are deemed admitted, and the matter will proceed to a hearing on the issue of the appropriate sanction. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.8 Notices by complainant and respondent.

36.8(1) Allegation of misappropriation or conversion. If the complainant intends to assert that a respondent misappropriated or converted client or third-party funds in violation of rule 32:1.15 or chapter 45 of the Iowa Court Rules, the complainant must specifically allege in the complaint the respondent's misappropriation or conversion for personal use without a colorable future claim to the funds. The division president may for good cause shown allow amendment of the complaint to specifically allege misappropriation or conversion, provided the respondent is given notice of the amendment and an adequate opportunity to respond before the hearing commences. In granting leave to amend, the division president may impose terms and conditions, including a delay or continuance of the hearing.

36.8(2) Colorable future claim. A respondent who intends to rely on the defense of a colorable future claim to funds taken from a trust account to avoid a finding of misappropriation must, within the time set for the making of pretrial motions or at such later time as the division president directs, file written notice of such intention. The division president may for good cause shown allow late filing of the notice. The respondent bears the burden of coming forward with evidence in support of a colorable future claim, but the burden to prove conversion remains with the complainant.

36.8(3) Failure to comply. If a respondent fails to abide by the time period described in rule 36.8(2), the respondent may not offer evidence on the issue of colorable future claim without leave of the division president for good cause shown. In granting leave, the division president may impose terms and conditions including a delay or continuance of hearing.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 36.8 is a new rule, intended to require notice of an allegation of misappropriation and use of the colorable future claim defense in trust account conversion cases. In 2014, the supreme court discussed the advisability of specifically alleging misappropriation or conversion for personal use in the complaint so that the respondent has adequate notice. *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Kelsen*, 855 N.W.2d 175 (Iowa 2014). The supreme court subsequently stated that a complaint alleging theft or misappropriation must "specifically allege misappropriation or conversion of a client retainer for personal use without a colorable

future claim." *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Cepican*, 861 N.W.2d 841 (Iowa 2015). In another 2014 attorney discipline case, the supreme court addressed allocation of the burden of proof with respect to the so-called colorable future claim defense to conversion of client funds held in trust. The court decided to allocate the burden of coming forward with evidence of a colorable future claim to the respondent attorney, but left the burden of proving conversion with the attorney disciplinary board. *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Carter*, 847 N.W.2d 228 (Iowa 2014). Rule 36.8 requires that the complainant specifically include in its complaint any allegation of misappropriation or conversion, and the rule incorporates a notice requirement for a respondent intending to assert the colorable future claim defense, similar to the notice requirements for alibi, insanity, diminished capacity, and other defenses described in Iowa Rule of Criminal Procedure 2.11(11). [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

Rule 36.9 Challenge regarding impartiality; four-member divisions.

36.9(1) Within the time allowed for filing an answer to the complaint, the respondent may challenge the impartiality of any member of the grievance commission or division by filing a motion setting forth the grounds for challenge. The motion will be disposed of as provided in rule 36.14. If the challenge is sustained, the vacancy thus created will be filled as provided in rule 36.4.

36.9(2) With the consent of the complainant and the respondent, a grievance commission division may consist of four members. If the four-member division is evenly divided between a recommendation of sanction or dismissal, the division must enter a dismissal of the complaint pursuant to the provisions of rule 36.19. Upon such dismissal, the complainant may apply for permission to appeal pursuant to rule 36.22.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 36.9 formerly appeared at Iowa Court Rule 36.13. It is amended to conform an internal rule reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.10 Setting case for hearing; pretrial conference and scheduling order.

36.10(1) After 30 days have elapsed from the date of service of the complaint and a grievance commission division is appointed to hear the matter, the grievance commission clerk must arrange a scheduling conference with the division members and the parties to schedule the hearing, discovery, and other pretrial matters. Notice of the scheduling conference must be provided at least 10 days prior to the scheduled telephone conference.

36.10(2) The hearing must be held not less than 60 days nor more than 90 days after the date the answer is due. A respondent who waives this requirement must file a written application for waiver of speedy hearing with the grievance clerk at least three days prior to the rule 36.10(1) scheduling conference. Hearings may only be set outside of this period if the division president finds that good cause exists and the respondent does not object. At least 10 days before the date set for the hearing, the grievance commission clerk must mail to all parties and division members a copy of the order setting the hearing. If a party does not participate in the scheduling conference, the grievance commission clerk must provide notice of the hearing to the party by restricted certified mail or personal service.

36.10(3) The division president must file a scheduling order regarding discovery and other pretrial matters after the telephone conference. The scheduling order must specify deadlines for disclosure of expert witnesses, service of discovery requests, service of responses to discovery, exchange of witness and exhibit lists, exchange of exhibits, amendment of pleadings, objections to witnesses or exhibits, motions to resolve discovery issues, and any other pretrial matters the division president deems appropriate.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; July 24, 2019, effective August 1, 2019; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020]

COMMENT: Rule 36.10 formerly appeared as Iowa Court Rule 35.7. It is amended to conform an internal reference to the new rule numbers and eliminate duplication with rule 36.11. In addition, provisions for a mandatory pretrial conference and a scheduling order regarding discovery and other pretrial matters are added, reflecting actual grievance commission pretrial practice. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.11 Time and place of hearing. The grievance commission chair or the division president to whom a complaint has been referred must direct a hearing to be held upon the complaint in the respondent's county of residence or, at the discretion of the grievance commission chair, within any other judicial district as most nearly serves the convenience of the parties and must designate by written order the time and place for the hearing. If the respondent files written objections to conducting the hearing in the respondent's county of residence, the hearing must be held at such other place as the grievance commission chair or division president directs by written order, in which case a new

notice of the hearing date must be given. If all parties and the division president agree, the hearing may be held by videoconference or telephone.

[Court Order January 26, 2016, effective April 1, 2016; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 36.11 formerly appeared as Iowa Court Rule 36.8. It is amended to eliminate duplication with rule 36.10. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.12 Continuances. A hearing may not be continued except for good cause, upon written application supported by affidavit. Except in a case of emergency, any motion for continuance must be filed at least seven days before the day of hearing. Any objections to continuance must be filed promptly.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 36.12 formerly appeared as Iowa Court Rule 36.9. It is amended to include language formerly in Iowa Court Rule 35.7 regarding the written application and affidavit. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.13 Discovery. In any disciplinary proceeding or action taken by the disciplinary board, discovery is permitted as provided in Iowa Rules of Civil Procedure 1.501(2) and 1.501(3), 1.502 through 1.504, 1.505(2), 1.506, 1.508 through 1.517, 1.701, 1.704, 1.705, and 1.707 through 1.717. The attorney against whom a complaint is filed, in addition to the restriction stated in Iowa Rule of Civil Procedure 1.503(1), is not required to answer an interrogatory pursuant to Iowa Rule of Civil Procedure 1.509, a request for admission pursuant to Iowa Rule of Civil Procedure 1.510, a question upon oral examination pursuant to Iowa Rule of Civil Procedure 1.701, or a question upon written interrogatories pursuant to Iowa Rule of Civil Procedure 1.710, if the answer would be self-incriminatory. In addition, evidence and testimony may be perpetuated as provided in Iowa Rules of Civil Procedure 1.721 through 1.728. If either party is to utilize discovery, it must be commenced within 30 days after service of the complaint. The grievance commission may permit amendments to the complaint to conform to the proof or to raise new matters as long as the respondent has notice and a reasonable time to prepare a defense prior to the date set for hearing. The grievance commission or any grievance commission division may receive an application and may enter an order to enforce discovery or to perpetuate any evidence. Discovery pursuant to this rule includes a respondent's right to obtain a copy of the disciplinary board's file pursuant to Iowa Court Rule 35.4(4).

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 36.13 formerly appeared as Iowa Court Rule 35.6. It is amended to conform an internal reference to the new rule numbers. Rule 36.13 also is amended based on changes to discovery rules for civil cases adopted effective January 1, 2015, with the goal of selectively incorporating the new discovery rules in civil cases to reflect current discovery practice before the grievance commission. The incorporated rules allow discovery by oral deposition, written interrogatories, requests for admission, requests for production, physical or mental examination, and depositions upon written interrogatories. Iowa Rule of Civil Procedure 1.507 regarding a discovery plan is not incorporated. Current grievance commission practice, incorporated in rule 36.10, is to craft a discovery plan that accommodates the hearing date and enter a scheduling order at the time the hearing date is set by telephone conference. Iowa Rules of Civil Procedure 1.501(1) and 1.505 are not incorporated because the contemplated initial disclosures are not relevant in attorney disciplinary cases or are already subject to disclosure in other parts of the attorney disciplinary process and the timing provisions are not compatible with the pace of attorney disciplinary proceedings. Similarly, Iowa Rule of Civil Procedure 1.702 regarding small claims and Iowa Rule of Civil Procedure 1.706 regarding substituted parties do not apply in attorney disciplinary proceedings. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.14 Prehearing motions and hearings. If prompt written request is filed by or on behalf of any party for a hearing upon any preliminary motion or application filed in connection with a complaint, the chair of the grievance commission sitting as a whole or the division president to whom such complaint has been referred must by written order set a time and place of hearing on the motion or application and must notify all parties and attorneys. After the hearing, or if none is requested, the grievance commission chair or division president, as the case may be, or any member of the grievance commission or division designated by the chair or president must file a written ruling upon the motion or application, and thereafter all parties must promptly comply with the ruling's terms and conditions. [Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 36.14 formerly appeared as Iowa Court Rule 36.12. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.15 Subpoenas.

36.15(1) The grievance commission has subpoena power on behalf of the disciplinary board and the attorney against whom a complaint is filed to compel the appearance of persons or the production of documents during discovery and the final hearing. The grievance commission clerk must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete the subpoena for service. An attorney licensed or otherwise authorized to practice law in Iowa, as an officer of the court, also may issue and sign a subpoena.

36.15(2) Any attack on the validity of a subpoena must be heard or determined by the grievance commission chair, the division president, or any division member to whom a complaint has been referred. Any resulting order is not appealable prior to entry of the grievance commission final ruling, report, or recommendation. Disobedience of a grievance commission subpoena is punishable as contempt in the district court for the county where the hearing is to be held. A contempt proceeding is not a matter of public record.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: Rule 36.15 formerly appeared as Iowa Court Rule 35.8. It is amended to conform an internal reference to the new rule numbers and to flow more logically. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.16 Stipulated submissions.

- **36.16(1)** The parties may stipulate and agree to waive formal hearing and submit the complaint to the grievance commission for its decision on the basis of a written stipulation the parties approve and file with the grievance commission clerk. The grievance commission may consider the complaint on the basis of the stipulation, refuse to accept the stipulation and proceed with a formal hearing, or accept the stipulation but conduct a limited hearing to elicit such additional evidence as the grievance commission may deem necessary to facilitate informed consideration of the complaint. A stipulation under this rule must be submitted not less than 15 days before the date set for hearing. A stipulation submitted pursuant to this rule may include a statement regarding the proposed discipline, including additional or alternative sanctions as provided in rule 36.19. A stipulation submitted pursuant to this rule must include:
- a. For each rule violation stipulated, a separate paragraph stating supporting facts sufficient to allow the grievance commission and the supreme court to find a factual basis for concluding the violation occurred.
 - b. A separate statement of conclusions of law as to the stipulated violations.
 - c. A separate description of mitigating and aggravating circumstances.
 - d. A stipulation as to all exhibits.
- e. A waiver of the formal hearing as to matters contained in the stipulation, the parties' agreement to submit the matter on the basis of the stipulation, and an agreement to closure of the record unless the grievance commission directs further proceedings.
- f. If the parties stipulate to a sanction, a separate paragraph supported by citations to prior Iowa Supreme Court discipline decisions and a discussion as to why those decisions support the stipulated sanction.
- **36.16(2)** If the grievance commission accepts a stipulation of facts, the stipulation binds the parties, the grievance commission, and the supreme court. The grievance commission must interpret the stipulation of facts with reference to its subject matter and in light of the surrounding circumstances and the whole record, including the state of the pleadings, issues involved, and any additional evidence elicited at a limited hearing.
- **36.16(3)** A stipulation as to violations or sanctions is not binding on the grievance commission or the supreme court. The grievance commission must consider the statement of proposed discipline, but the statement does not limit the commission. The commission may recommend greater or lesser discipline, including additional or alternative sanctions.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 36.16 formerly appeared as Iowa Court Rule 35.9. It is amended to conform an internal reference to the new rule numbers. In addition, more specific requirements for the content of stipulated submissions and more specific provisions regarding the effect of stipulations are included based on the decisions of *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Haskovec*, 869 N.W.2d 554 (Iowa 2015) and *Iowa Sup. Ct. Att'y Disciplinary Bd. v. Gailey*, 790 N.W.2d 801 (Iowa 2010). [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

Rule 36.17 Conduct of hearing.

- **36.17(1)** At the time and place set for the hearing upon any complaint, the grievance commission or division must proceed to hear the evidence and arguments of the parties. The hearing is not open to the public.
- **36.17(2)** The respondent may present character evidence by sworn affidavit, which must be filed as part of the respondent's exhibits. The affidavit must be admitted into evidence unless the complainant indicates, at least three days prior to the scheduled hearing date, that it intends to cross-examine the affiant. In such case, the affidavit must not be received into evidence, and the affiant must testify in the manner of all other witnesses. The respondent may similarly offer the character evidence of

a subpoenaed judge by sworn affidavit, subject to the same constraints if the complainant timely indicates its intention to cross-examine the affiant judge. All other witnesses must testify at the hearing after administration of an oath or affirmation by a grievance commission member or other person authorized by law to administer oaths, and their testimony must be officially reported by a duly qualified court reporter.

- **36.17(3)** If the respondent previously has been publicly reprimanded, the respondent's license has been suspended or revoked, or the respondent has been disbarred, a certified copy of said action must be admitted into evidence at any hearing involving disciplinary proceedings without the necessity of a bifurcated hearing. The grievance commission and the supreme court will consider this evidence with all other evidence in the case in determining the respondent's fitness to practice law in the State of Iowa.
- **36.17(4)** Either party may use principles of issue preclusion in an attorney discipline case if all of the following conditions exist:
- a. The issue has been resolved in a civil proceeding that resulted in a final judgment or in a criminal proceeding that resulted in a finding of guilt, even if the disciplinary board was not a party to the prior proceeding.
 - b. The burden of proof in the prior proceeding was greater than a preponderance of the evidence.
- c. The party seeking preclusive effect has given written notice to the opposing party, not less than 10 days prior to the hearing, of the party's intention to invoke issue preclusion.
- **36.17(5)** The respondent may defend and has the right to participate in the hearing in person and by counsel to cross-examine, to be confronted by witnesses, and to present evidence.
- **36.17(6)** The presentation of evidence must conform to the Iowa Rules of Civil Procedure and the Iowa Rules of Evidence. The grievance commission chair or division president will determine all questions of procedure, including objections to evidence.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

COMMENT: The majority of rule 36.17 formerly appeared at Iowa Court Rule 36.14. Rules 36.17(3) and 36.17(4) formerly appeared at Iowa Court Rule 35.7. [Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018]

Rule 36.18 Oaths. Any member of the grievance commission may administer oaths or affirmations to all witnesses and must cause such testimony to be officially reported by a court reporter. [Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 36.18 formerly appeared as Iowa Court Rule 36.10. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.19 Action upon complaint; report of decision.

36.19(1) At the conclusion of a hearing upon any complaint against an attorney, the grievance commission may permit a reasonable time for the parties to file post-hearing briefs and arguments. The commissioners must dismiss the complaint, issue a private admonition, or recommend that the supreme court reprimand the respondent or suspend or revoke the respondent's license. If the commissioners recommend a reprimand, suspension, or revocation, they must file with the grievance commission clerk a report of their findings of fact, conclusions of law, and recommendations within 60 days of the date set for filing of the last responsive brief and argument. The report must be titled in the name of the complainant versus the accused attorney as respondent. As part of its report, the grievance commission may recommend additional or alternative sanctions such as restitution, costs, practice limitations, appointment of a trustee or receiver, passage of a bar examination or the Multistate Professional Responsibility Examination, attendance at continuing legal education courses, or other measures consistent with the purposes of attorney discipline. The clerk of the grievance commission must promptly file the report with the supreme court clerk and must serve the report upon the complainant and the respondent as provided in Iowa Rule of Appellate Procedure 6.701. The matter then stands for disposition in the supreme court.

36.19(2) All reports and recommendations of the commissioners must be concurred in by at least 3 members of the division or at least 12 members of the grievance commission, as the case may be, all of whom must have been present throughout the proceedings. Any commissioner has the right to file with the grievance commission clerk a dissent from the majority determination or report. The clerk must promptly serve a copy of a dissent on the parties.

36.19(3) If the grievance commission dismisses the complaint or issues a private admonition, no report may be made to the supreme court except as provided in rule 34.13; however, the grievance commission must, within 10 days of its determination, serve a copy of its determination or report on

the complainant and the attorney concerned as provided in this rule. If the complainant does not apply for an appeal within 10 days after such service, the grievance commission's determination is final.

36.19(4) If the commissioners dismiss the charges, no publicity will be given to any of the proceedings except at respondent's request.

36.19(5) A copy of the grievance commission's report must be filed with the Client Security Commission.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018] COMMENT: Rule 36.19 formerly appeared as Iowa Court Rule 36.15. It is amended to conform an internal reference to the new rule numbers and to complement rule 36.20. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.20 Additional time for decision upon request. If the grievance commission cannot reasonably make its determination or file its report within 60 days of the date set for the filing of the last responsive brief and argument, the division president may file a request for an extension of time with the grievance commission clerk prior to expiration of the 60-day period. The clerk must serve a copy of the request on the grievance commission chair and the parties. The grievance commission clerk, who must serve a copy on all parties. If the division fails to file its decision or a request for an extension of time within 60 days of the date set for the filing of the last responsive brief and argument, the grievance commission clerk must promptly notify the executive director of the office of professional regulation of the failure.

[Court Order January 26, 2016, effective April 1, 2016; September 14, 2021, effective October 1, 2021] COMMENT: Rule 36.20 formerly appeared at Iowa Court Rule 35.10. It is amended to conform an internal reference to the new rule numbers and to reflect the provisions moved to or already present in rule 36.19. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.21 Supreme court disposition if no appeal.

36.21(1) Within 14 days after a report is filed with the supreme court clerk, the grievance commission clerk must transmit to the supreme court clerk the entire record made before the grievance commission. If no appeal is taken or application for permission to appeal is filed within the 10-day period provided in rule 36.22, the supreme court will set a date for submission of the grievance commission report. The supreme court will notify the parties that they may file written statements with the supreme court in support of or in opposition to the discipline the grievance commission recommends. Statements in support of or in opposition to the recommended discipline must be served and filed no later than seven days before the date set for submission. Upon submission, the supreme court will proceed to review de novo the record made before the grievance commission and determine the matter without oral argument or further notice to the parties. Upon de novo review the supreme court may impose a lesser or greater sanction than the discipline the grievance commission recommends.

36.21(2) The supreme court may revoke or suspend the license of an attorney admitted to practice law in Iowa upon any of the following grounds: conviction of a felony, conviction of a misdemeanor involving moral turpitude, violation of any provision of the Iowa Rules of Professional Conduct, or any cause now or hereafter provided by statute or these rules.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 36.21 formerly appeared as Iowa Court Rule 35.11. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.22 Appeal.

36.22(1) Pursuant to rule 36.19, the respondent may appeal to the supreme court from the report or recommendation the grievance commission files. The respondent's notice of appeal must be filed with the grievance commission clerk within 10 days after service of the report or recommendation on the respondent. The respondent must serve a copy of the notice of appeal on the complainant pursuant to Iowa Rule of Appellate Procedure 6.701. Promptly after filing the notice of appeal with the grievance commission clerk, the respondent must mail or deliver a copy of the notice to the supreme court clerk.

36.22(2) The complainant may apply to the supreme court for permission to appeal from a determination, ruling, report, or recommendation of the grievance commission. The application must be filed within 10 days after service of the determination, ruling, report, or recommendation on the complainant. The supreme court may grant such appeal in a manner similar to the granting of interlocutory appeals in civil cases under the Iowa Rules of Appellate Procedure. The filing fee and the docket fee may be waived upon the complainant's written request.

36.22(3) An appeal of the grievance commission's dismissal of a complaint or of the grievance commission's decision to issue a private admonition must remain confidential. In making such application, and in any subsequent briefs, the complainant must refer to the respondent as "Attorney Doe No. (insert grievance commission number)," instead of using the respondent's name. All references to the respondent during oral arguments must be to "Attorney Doe." In the event the supreme court reverses or modifies the report of the grievance commission, the court order of reversal or modification is a public record.

36.22(4) After a notice of appeal is filed or permission to appeal is granted, the appeal must proceed pursuant to the Iowa Rules of Appellate Procedure to the full extent those rules are not inconsistent with this chapter. Within seven days of the filing of the notice of appeal or the filing of the order granting permission to appeal, appellant must pay the filing fee pursuant to Iowa Rule of Appellate Procedure 6.702 and must file the combined certificate Iowa Rule of Appellate Procedure 6.804 requires. The matter must be captioned under the title given to the action before the grievance commission with the appellant identified as such pursuant to Iowa Rule of Appellate Procedure 6.109(2), unless rule 36.22(3) requires otherwise. The abbreviated time limits specified in Iowa Rule of Appellate Procedure 6.902 apply. Extensions of time must not be granted except upon a verified showing of the most unusual and compelling circumstances. Review is de novo. If a respondent's appeal is dismissed for lack of prosecution pursuant to Iowa Rule of Appellate Procedure 6.1202 or for any other reason, the supreme court must proceed to review and decide the matter pursuant to rule 36.21 as if no appeal had been taken.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018] COMMENT: Rule 36.22 formerly appeared as Iowa Court Rule 35.12. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.23 Harmless error; substantial prejudice test. An omission, irregularity, or other defect in procedure will not render void or ineffective any act of the grievance commission, division, or any member thereof unless substantial prejudice is shown to have resulted.

[Court Order January 26, 2016, effective April 1, 2016]

COMMENT: Rule 36.23 formerly appeared as Iowa Court Rule 36.17. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

Rule 36.24 Costs.

36.24(1) In the event that an order of revocation, suspension, or public reprimand results from formal charges of misconduct, the supreme court will assess against the respondent the costs of the proceeding. For the purposes of this rule, costs include those expenses normally taxed as costs in state civil actions pursuant to the provisions of Iowa Code chapter 625. Transcript costs for hearings before the grievance commission are not subject to the maximum compensation amounts for shorthand reporters set forth in Iowa Court Rule 22.28. Transcript costs will be taxed at the actual amount the grievance commission expends.

36.24(2) Within 30 days of the filing of the grievance commission report, the clerk of the grievance commission must serve the complainant and the respondent with a bill of costs and file the bill with the supreme court clerk. An appeal does not obviate this requirement. The complainant and the respondent have 10 days from the date of service to file written objections with the supreme court and the grievance commission clerk. Any objections filed must be considered by the grievance commission division president or the president's designee. The president or the designee must rule on the objections within 10 days. The supreme court will consider the ruling and objections upon disposition of the matter under rule 36.21 or 36.22. The supreme court clerk must tax additional costs associated with an appeal as in other civil actions.

36.24(3) In its final decision, the supreme court will order the respondent to pay restitution to the complainant for such costs as the supreme court may approve. A suspended or disbarred attorney may not file an application for reinstatement or readmission until the amount of such restitution for costs assessed under this rule is fully paid or waived by the supreme court.

[Court Order January 26, 2016, effective April 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

COMMENT: Rule 36.24 formerly appeared as Iowa Court Rule 35.27. It is amended to conform an internal reference to the new rule numbers. [Court Order January 26, 2016, effective April 1, 2016]

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Rule 36.25 Forms.

Rule 36.25 — Form 1: Notice of Complaint.

Before the Iowa Supreme Court Grievance Commission				
lowa Supreme Court				
Attorney Disciplinary Board,				
Complainant,	Notice of Complaint			
vs.				
, Attorney at Law, of				
Full name: first, middle, last				
, Iowa				
Respondent.				
То:	1			
Respondent's name				
Respondent:				
Clerk at the Iowa Judicial Branch Building, 1111 Ea that you have committed unethical practices as an att	with the Iowa Supreme Court Grievance Commission st Court Avenue, Des Moines, Iowa 50319, alleging corney and counselor at law. the Iowa Court Rules are attached and made a part			
of this notice.	the love scar reaction and allegate and made a part			
-	to the complaint within 20 days from the completed ers of the grievance commission made in accordance			
You are further notified that the grievance commiss rules and will take action as may be warranted by the	sion will hear this complaint in accordance with the facts and circumstances disclosed at the hearing.			
Dated this day of, 20	r			
	Grievance Commission Clerk Iowa Judicial Branch Building 1111 East Court Avenue Des Moines, Iowa 50319			
January 2016 Rule 36.29				

CHAPTER 37 COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

Rule 37.1	Commission on the Unauthorized Practice of Law
Rule 37.2	Injunctions
Rule 37.3	Unauthorized practice of nonadmitted lawyers
Rule 37.4	Domestic violence, sexual assault, and sexual abuse victim counselors
Rule 37.5	Limited real estate practice

CHAPTER 37 COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

Rule 37.1 Commission on the Unauthorized Practice of Law.

- **37.1(1)** There is created a commission for the abatement of the unauthorized practice of law, which is known as the Commission on the Unauthorized Practice of Law (commission). This commission comprises seven lawyer members and two nonlawyer members, all of whom are appointed by the supreme court. The supreme court may accept nominations for appointment to the commission from any association of lawyers that maintains an office within the State of Iowa or any lawyer licensed in Iowa. The court will designate annually one lawyer commission member to be the chair. Members may serve no more than three three-year terms, and a member who has served three full terms is not eligible for reappointment. The commission's purpose is to receive complaints and make investigations with respect to the alleged unauthorized practice of law within this state.
- **37.1(2)** The executive director of the office of professional regulation will designate the director of boards and commissions of the office of professional regulation to serve as the principal administrator for the commission on the unauthorized practice of law. Wherever in this chapter a reference to the "director" appears, it refers to the director of boards and commissions of the office of professional regulation.
- **37.1(3)** Commission expenses must be paid from the disciplinary fee account of the Clients' Security Trust Fund of the Bar of Iowa. The executive director of the office of professional regulation must, annually on or before May 1 or on a date otherwise specified by the supreme court, submit a budget to the supreme court for the next fiscal year.

[Court Order April 17, 1990, effective June 1, 1990; May 2, 1997; November 9, 2001, effective February 15, 2002; June 28, 2004, effective May 1, 2004; April 20, 2005, effective July 1, 2005; December 5, 2007; December 10, 2012, effective July 1, 2013; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 37.2 Injunctions.

- 37.2(1) If the commission has reasonable cause to believe that any person who has not been admitted to practice law within this state is engaging in the practice of law or holding out to the public that the person is qualified to provide services constituting the practice of law in this state, the commission may file a verified complaint with the clerk of the district court in any county in which the unauthorized practice is alleged to have occurred.
- 37.2(2) The complaint must be filed with the clerk of the district court, be given a docket number, and be captioned in the Iowa District Court for ______ County. The commission must be designated as the complainant. The respondent must be named and designated as the respondent. The complaint must be presented to the chief judge of the judicial district for entry of an order to be served on the respondent requiring that person to appear before the court and show cause why that person should not be enjoined from such activity. The show-cause hearing will be held before the chief judge or another judge designated by the chief judge.
- 37.2(3) If it appears that the facts are incapable of being adequately developed at a summary hearing, the matter may be set for trial before that judge, who will hear the evidence and make findings of fact and an appropriate dispositional order.

[Court Order April 17, 1990, effective June 1, 1990; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 37.3 Unauthorized practice of nonadmitted lawyers. If the commission makes a determination that any person who is admitted to practice in another jurisdiction but is not admitted to practice in this state has violated an injunction issued in compliance with rule 37.2, the commission must report its findings to the office of professional regulation, and the court may, in its discretion, use such information for purposes of admissions under Iowa Court Rule 31.12.

[Court Order May 2, 1997; November 9, 2001, effective February 15, 2002; February 14, 2008, effective April 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 37.4 Domestic violence, sexual assault, and sexual abuse victim counselors.

37.4(1) In all proceedings under Iowa Code chapters 236, 236A, and 664A, a victim counselor, as defined in Iowa Code section 915.20A(1)(d), who is affiliated with a member domestic violence program of the Iowa Coalition Against Domestic Violence or a member of the sexual assault program

of the Iowa Coalition Against Sexual Assault, and whose program has registered with the Iowa Coalition Against Domestic Violence or the Iowa Coalition Against Sexual Assault as providing services under this rule, is allowed to do the following:

- a. To distribute the pro se forms prescribed by the department of justice pursuant to Iowa Code sections 236.3A and 236A.4 and to assist victims of domestic violence in the preparation of such forms
- b. To describe to victims the proceedings under chapters 236, 236A, and 664A and to assist them in their role as witnesses.
- c. To accompany victims throughout all stages of proceedings under Iowa Code chapters 236, 236A, and 664A.
- d. To attend all court proceedings, including sitting in chambers and at counsel table, to confer with the plaintiffs, and, at the judge's discretion, to address the court; however, domestic violence and sexual assault victim counselors cannot examine witnesses, make arguments to the court, or otherwise act in a representative capacity for victims of domestic violence.
- 37.4(2) The Iowa Coalition Against Domestic Violence and the Iowa Coalition Against Sexual Assault must provide to the director of the office of professional regulation, on an annual basis and more frequently as necessary, an updated list of its member programs that perform the services provided under this rule.
- **37.4(3)** When they assist victims of domestic violence as specified in this rule, domestic violence and sexual assault victim counselors are not engaged in the unauthorized practice of law. [Court Order October 18, 1993, effective January 3, 1994; November 9, 2001, effective February 15, 2002; June 14, 2002, effective July 1, 2002; March 15, 2007; February 14, 2008, effective April 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 37.5 Limited real estate practice.

- **37.5(1)** *Purpose.* The purpose of this rule is to authorize nonlawyers to select, prepare, and complete certain legal documents incident to residential real estate transactions of four units or less. The preparation of documents beyond that authorized by this rule may constitute the unauthorized practice of law.
- 37.5(2) Scope of practice authorized. Except to the extent authorized by this rule, the selection, preparation, and completion of legal documents in connection with real estate transactions by nonlawyers constitutes the unauthorized practice of law unless the nonlawyer is acting on his or her own behalf as a buyer or seller.
- a. Upon written request of a buyer or seller, a nonlawyer may select, prepare, and complete form documents for use incident to a residential real estate transaction of four units or less. Such documents are limited to:
- (1) Purchase offers or purchase agreements, provided the parties are given written notice that these are binding legal documents and competent legal advice should be sought before signing.
 - (2) Groundwater hazard statements.
 - (3) Declaration of value forms.
 - b. Nonlawyers cannot select, prepare or complete:
 - (1) Deeds.
 - (2) Real estate installment sales contracts.
 - (3) Affidavits of identity or nonidentity.
 - (4) Affidavits of payment of spousal or child support.
 - (5) Any other documents necessary to correct title problems or deficiencies.
- c.. Nonlawyers may not charge for preparation of the legal documents authorized by this rule. [Court Order May 23, 2001; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

CHAPTER 38 RULES OF PROCEDURE OF THE COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

Rule 38.1	Jurisdiction; authorization; scope
Rule 38.2	Definitions
Rule 38.3	Officers
Rule 38.4	Meetings and quorum
Rule 38.5	Complaints to the commission
Rule 38.6	Investigation procedure
Rule 38.7	Determination following investigation
Rule 38.8	Confidentiality
Rule 38.9	Immunity

CHAPTER 38 RULES OF PROCEDURE OF THE COMMISSION ON THE UNAUTHORIZED PRACTICE OF LAW

Rule 38.1 Jurisdiction; authorization; scope. The Commission on the Unauthorized Practice of Law, as an official arm of the court, is charged under Iowa Court Rule 37.2 with considering, investigating, and seeking the prohibition of matters pertaining to the unauthorized practice of law and the prosecution of alleged offenders. The rules contained in this chapter apply to all proceedings, functions, and responsibilities of the commission.

[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 10, 2012; December 13, 2017, effective January 1, 2018]

- **Rule 38.2 Definitions.** In this chapter unless the content or subject matter otherwise requires:
- **38.2(1)** "Director" means the director of boards and commissions designated by the executive director of the office of professional regulation.
- 38.2(2) "Chair" means the presiding officer of the commission and includes the chair of the commission, the vice chair, or any acting chair designated by the commission to preside in the absence of the chair.
 - 38.2(3) "Commission" means the Commission on the Unauthorized Practice of Law.
- **38.2(4)** "Respondent" is the person or entity whose conduct is the subject of a complaint to the commission or a proceeding in district court pursuant to Iowa Court Rule 37.2.
- **38.2(5)** "Must" is mandatory and "may" is permissive. [Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 5, 2007; December 10, 2012; November 20, 2015; effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]
- **Rule 38.3 Officers.** At its first meeting in each year, the commission will elect a vice chairperson to serve for the year and until a successor is elected.

[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 38.4 Meetings and quorum.

- **38.4(1)** Meetings of the commission will be called by the chair of the commission and may be attended in person or by telephone. The commission must meet at least once in each calendar quarter. Special meetings may be called by the chairperson or at the request of three or more members of the commission.
- **38.4(2)** The commission may act only upon the concurrence of a majority of the members present, except in the case of a vote to initiate an action pursuant to Iowa Court Rule 37.2, in which case the commission may act only upon the concurrence of a minimum of four members.

[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 10, 2012, effective July 1, 2013; December 13, 2017, effective January 1, 2018]

- Rule 38.5 Complaints to the commission. Complaints may be accepted from any person or other entity believing that an individual or entity has been engaged in the unauthorized practice of law.
- **38.5(1)** In this context, "complaint" means any written communication to the commission that alleges or indicates that the unauthorized practice of law has been or is taking place.
- **38.5(2)** Complaints must be in writing but may be simple and informal. Complaints must include whatever information or exhibits the complainant desires to submit.
- **38.5(3)** Complaints must be filed by submitting them to the director at the office of professional regulation.
- **38.5(4)** The commission may, upon its own motion and regardless of whether any complaint has been filed, initiate any investigation or action it deems appropriate.
- **38.5(5)** Upon receiving a complaint or initiating any investigation or action on its own motion, the commission must make a record indicating the date of filing or initiation, the name and address of complainant, the name and address of respondent, and a brief statement of the allegations made. This record must also show the final disposition of the matter when it is completed.

38.5(6) All commission files must be kept in permanent form at the office of professional regulation.

[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 5, 2007; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 38.6 Investigation procedure.

- **38.6(1)** Upon receipt of a complaint, the commission may notify the complainant in writing that the complaint has been received and will be considered by the commission.
- **38.6(2)** Upon receipt of a complaint, the commission must cause the complaint to be set for consideration by the commission at its next meeting.
- **38.6(3)** When considering a complaint, the commission must act in accordance with the following guidelines:
- a. If it reasonably appears from the complaint that the respondent is not engaged in the unauthorized practice of law, the chair or the chair's designee must notify the complainant in writing of the commission's position and that the commission will take no further action.
- b. Other complaints may be further investigated and acted upon by the commission consistent with this chapter and, if appropriate, referral may be made to the Iowa Supreme Court Attorney Disciplinary Board, the Iowa Department of Justice, or some other agency or entity.
- c. If the commission determines that a complaint should be investigated further, it may direct that the investigation be conducted by a commission member or members or by the director.
- d. If the commission in its discretion determines that it would be helpful for the respondent to provide a written response to the matters alleged in the complaint, it may direct that the respondent be so notified. In such circumstances the respondent must be notified of the substance of the complaint and that it is requested, but not required, that within 20 days the respondent provide a written response to the commission concerning the matters referred to in the notice.
- e. The commission may request the complainant to clarify the complainant's original statement, to furnish additional information, to disclose sources of information, or to verify by affidavit statements of fact within the complainant's knowledge.
 - f. The commission may also initiate inquiries of other sources.
- **38.6(4)** Nothing in this rule prohibits the chair of the commission from referring any complaint for investigation in advance of the next commission meeting when, in the chair's discretion, such referral is warranted.

[Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

- **Rule 38.7 Determination following investigation.** After the results of an investigation are returned to the commission, the commission may do any of the following:
 - **38.7(1)** Close the file and so notify the complainant.
- **38.7(2)** Contact the respondent to obtain an agreement by the respondent to cease and desist from the unauthorized practice of law.
- **38.7(3)** Initiate an action pursuant to Iowa Court Rule 37.2. [Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 10, 2012; December 13, 2017, effective January 1, 2018]

Rule 38.8 Confidentiality.

- **38.8(1)** All unauthorized practice of law investigation matters, including but not limited to files, correspondence, investigation reports, memoranda, and records of investigations, are confidential unless otherwise provided in this chapter or ordered by the Iowa Supreme Court. All statements, communications, or materials that may be received or obtained by any person investigating any complaint on behalf of the commission must also be confidential unless otherwise provided in this chapter or ordered by the Supreme Court of Iowa.
 - **38.8(2)** Notwithstanding rule 38.8(1):
- a. If the commission initiates an action pursuant to Iowa Court Rule 37.2, the petition and all documents filed in that proceeding are public documents.
- b. The chairperson or other designee of the commission may issue one or more clarifying announcements when the subject matter of a complaint or petition is of broad public interest. No

other member of the commission may make any public statement concerning any matter before the commission without prior approval of the commission.

- c. Pursuant to the commission's order, records may be inspected by and their contents disclosed to a person conducting bona fide research for research purposes, provided that no personal identifying data or work product of commission counsel is disclosed to such a person.
 - d. Nothing in this chapter prohibits the commission from releasing information to its counsel.
- e. Nothing in this chapter prohibits the commission from releasing information as appropriate to the Iowa Supreme Court, the Iowa Department of Justice, the Iowa Supreme Court Attorney Disciplinary Board, appropriate law enforcement authorities, or some other agency or entity. [Court Order February 17, 1992, effective July 1, 1992; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 10, 2012; December 13, 2017, effective January 1, 2018]

Rule 38.9 Immunity. Members of the commission and their respective staffs are immune from suit for any conduct in the course of their official duties. Complaints submitted to the commission, and testimony with respect thereto, are privileged and no lawsuit predicated thereon may be instituted. [Court Order February 17, 1992, effective July 1, 1992; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

CHAPTER 39 CLIENT SECURITY COMMISSION

Rule 39.1	Client Security Commission
Rule 39.2	Principal executive officer
Rule 39.3	Clients' Security Trust Fund of the Bar of Iowa
Rule 39.4	Audit; banking; budget
Rule 39.5	Annual disciplinary fee
Rule 39.6	Fund assessments
Rule 39.7	Exemption; retirement
Rule 39.8	Enforcement
Rule 39.9	Claims
Rule 39.10	Investigations; audits
Rule 39.11	Annual questionnaire
Rule 39.12	Investigations; audits; annual questionnaire; enforcement
Rule 39.13	Attorneys acting as fiduciaries
Rule 39.14	Reinstatement from exemption or suspension
Rule 39.15	Denial of reinstatement for failure to comply with certain obligations
Rule 39.16	Attorneys practicing in Iowa under the multijurisdictional practice rule
Rule 39.17	Collection of court costs and other fees
Rule 39.18	Requirement for death or disability designation and authorization

CHAPTER 39 CLIENT SECURITY COMMISSION

Rule 39.1 Client Security Commission.

- **39.1(1)** *Commission.* There is hereby created a Client Security Commission (commission), which has the duties and powers provided in this chapter.
- **39.1(2)** *Duties of commission.* The commission has the following duties and powers as limited and defined in this chapter:
- a. To examine lawyer defalcations and breaches of Iowa Rules of Professional Conduct, the rules relating to the discipline of members of the Iowa bar, and to make recommendations to the supreme court concerning rule changes deemed necessary or desirable in this area.
- b. To assist the court in administering both preventive and remedial attorney disciplinary procedures contained in these rules or other court rules.
- c. To administer and operate the Clients' Security Trust Fund of the Bar of Iowa, as hereinafter created, designated as the "fund."
- **39.1(3)** Appointment of commissioners. The supreme court will appoint five members of the Iowa bar and two laypersons who are residents of this state to the commission. All appointments will be for a term of four years, and any commissioner who has served two full terms is not eligible for reappointment. A vacancy occurring during a term will be filled by the supreme court for the unexpired portion thereof.
- **39.1(4)** Organization and meetings. The commissioners must organize annually and elect from among their number a chair and a treasurer to serve for a one-year term and such other officers for such terms as they deem necessary or appropriate. Meetings thereafter will be held at the call of the chair or of the majority of the commissioners. Five commissioners will constitute a quorum and may transact all business except as may be otherwise provided by this chapter and chapter 40 of the Iowa Court Rules.
- **39.1(5)** *Regulations.* The commission may adopt regulations, consistent with this chapter and subject to the approval of the supreme court, concerning all of the powers and duties granted to and imposed upon the commission by this chapter.
- **39.1(6)** *Reimbursement.* The commissioners must serve without compensation but are entitled to reimbursement from the fund for their expenses reasonably incurred in the performance of their duties.

[Court Order December 5, 1973; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; May 25, 2004; April 20, 2005, and July 1, 2005, effective July 1, 2005; December 13, 2017, effective January 1, 2018]

Rule 39.2 Principal executive officer.

- **39.2(1)** Appointment. The executive director of the office of professional regulation serves as the principal executive officer of the commission. The executive director may designate a director of client security to assist with the duties described in this chapter.
- **39.2(2)** Duties of the executive director. Subject to the supervision of the supreme court and the commission, the executive director must do the following:
- a. Collect attorney fees and assessments for the fund and report to the commission the names and addresses of all attorneys who fail to pay the fee and assessment.
- b. Serve as executive secretary to the commission and assist in the operation and administration of the fund.
- c. Conduct investigations and audits of attorneys' accounts and office procedures to determine compliance with this chapter, Iowa Rule of Professional Conduct 32:1.15, and chapter 45 of the Iowa Court Rules and report violations to the commission.
- d. Maintain an office in such place as the supreme court may designate, act as a liaison between the court, the commission, and other commissions, committees, boards, and personnel serving a function in the disciplinary system, and maintain for the court records of disciplinary proceedings and such other information and data as the court requires.
- e. Upon request of the commission, institute disciplinary proceedings before the grievance commission pursuant to chapter 36 of the Iowa Court Rules.
- f. Perform such other functions and duties as may be directed by the supreme court. [Court Order December 5, 1973; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; November 20, 2015, effective

January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 39.3 Clients' Security Trust Fund of the Bar of Iowa.

- **39.3(1)** *Creation, operation and purpose.* A trust fund, to be known as the "Clients' Security Trust Fund of the Bar of Iowa" (fund) is hereby authorized and created.
- **39.3(2)** *Administration.* The fund will be operated and administered by the commission in accordance with this chapter.
- **39.3(3)** *Purpose.* The purpose of the fund is to prevent defalcations by members of the Iowa bar, and insofar as practicable, to provide for the indemnification by the profession for losses caused to the public by the dishonest conduct of members of the bar of this state, and to provide funding for the administration of the lawyer disciplinary system and other programs that impact the disciplinary system including, but not limited to, the Iowa Lawyer's Assistance Program.
- **39.3(4)** Powers and duties of commission relating to the fund. The commission, in addition to the powers granted elsewhere in this chapter, also has the following powers and duties:
- a. To receive, hold, manage, and distribute, pursuant to the direction of the supreme court and this chapter, the moneys raised hereunder, and any other amounts that may be received by the fund through voluntary contributions or otherwise.
- b. To adopt, subject to the approval of the supreme court, regulations for the administration of the fund and the procedures for presentation, consideration, recognition, rejection and payment of claims, and for conducting business. A copy of such regulations must be filed with the clerk of the supreme court.
 - c. To enforce claims for restitution arising by subrogation or assignment or otherwise.
- d. To invest the fund, or any portion thereof, in those investments and in the percentages authorized by Iowa Code section 97B.7, (investments for the Iowa Public Employees' Retirement System); provided, however, the commission is not required to invest such portions of the fund as it may deem necessary to be currently available for payment of claims and other expenses required by this chapter. All interest or other income received in the operation of the fund will become a part of the fund.
 - e. To employ and compensate consultants, agents, legal counsel, and employees.
- f. To delegate the power to perform routine acts that may be necessary or desirable for the operation of the fund, including the power to authorize disbursements for routine operating expenses of the fund, and all necessary expenses of the assistant administrator and staff in the performance of their duties. Authorization for payment of claims, however, may be made only by the commission under the provisions of this chapter.
 - g. To sue in the name of the commission without joining any or all individual commissioners.
- h. To purchase complementary fidelity coverage for the fund in such amount and with such limitations or deductible limits as in its discretion it determines proper.
- i. To pay reasonable and necessary attorney fees incurred by the commission in connection with disciplinary proceedings based on attorney defalcations or which are initiated pursuant to rule 39.2(3)(e)
- *j.* To fund programs that the commission believes will assist in preventing defalcations by attorneys. The annual allocation for any such program must not exceed two and one-half percent of the fund value as of the beginning of the fiscal year in which the funding is to occur. No such funding may be provided unless there is at least twice the minimum balance required by rule 39.6(3) in the fund at the beginning of the fiscal year in which the funding is to occur.
- **39.3(5)** Applications to the supreme court. The commission may apply to the supreme court for interpretations of this chapter and of the extent of the commission's powers thereunder and for advice regarding the proper administration of the fund. Interpretations of the supreme court are obligatory when rendered.

[Court Order November 9, 2001, effective February 15, 2002; November 26, 2013, effective December 1, 2013; December 13, 2017, effective January 1, 2018]

Rule 39.4 Audit; banking; budget.

39.4(1) Audit and report. On March 1 of each year, and at such additional times as the supreme court may order, the commission must file with the supreme court a written report reviewing in detail the administration of the fund during the preceding calendar year together with an audit of the fund certified by a certified public accountant licensed to practice in Iowa.

- **39.4(2)** Banking and disbursements. The executive director of the office of professional regulation must maintain the assets of the fund in a separate account and may disburse moneys from the fund only at the direction of the supreme court or upon the action of the commission pursuant to this chapter. A separate bookkeeping account designated as the disciplinary fund account must be maintained within the fund for moneys derived from the annual disciplinary fee set out in rule 39.5. Fees, penalties, or investment income derived from the investment of the income from annual disciplinary fees and penalties must be placed in the disciplinary fund account.
- **39.4(3)** Budget. At least 60 days prior to the commencement of each fiscal year or on a date otherwise specified by the supreme court, the executive director of the office of professional regulation must submit to the supreme court its budget of operations of such year, which may be amended thereafter as necessity dictates.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 39.5 Annual disciplinary fee. As a condition to continuing membership in the bar of the supreme court, including the right to practice law before Iowa courts, every bar member, unless exempt or retired, must pay to the commission through the office of professional regulation an annual fee as determined by the supreme court to finance the disciplinary system. The annual fee is due on or before March 10 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31. A member of the bar of the supreme court who certifies in writing to the commission that the member is a justice, judge, associate judge, or full-time magistrate of any court, spends full time in the military service of the United States following admission to the Iowa bar, is admitted on examination to the bar of Iowa during the current calendar year, or is issued a certificate of exemption or a certificate of retirement pursuant to the provisions of rule 39.7 is exempt from payment of this fee.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; December 2, 2011; April 25, 2014; August 19, 2016, effective September 1, 2016; December 13, 2017, effective January 1, 2018]

Rule 39.6 Fund assessments.

39.6(1) Assessments. As a condition to continuing membership in the bar of Iowa, including the right to practice law before Iowa courts, every bar member, unless exempt or retired under the provisions of rule 39.6(6) or rule 39.7, must pay to the commission through the office of professional regulation the assessment specified in rule 39.6(2), 39.6(3), or 39.6(4), or as provided by court order. The assessment is to be paid annually and deposited in the fund created pursuant to the provisions of rule 39.3. Assessments are due on or before March 10 of each year, for that calendar year. A calendar year is defined as the period of time from January 1 through December 31.

39.6(2) *Initial and regular assessment schedule.*

For the years after an initial total of \$200 in assessments has been paid, unless a special assessment is payable under rule 39.6(4), a regular annual assessment of \$50 annually. [Court Order June 13, 1979; November 13, 1984; November 15, 1985; November 11, 1986; November 19, 1987; October 20, 1988; November 16, 1989; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; December 5, 2007; November 26, 2013, effective December 26, 2013]

39.6(3) Certificate of sufficiency. The commission must determine the net value of the cash and securities in the fund as of December 1 of each year. The commission must file with the supreme court prior to December 31 of each year a certificate regarding sufficiency of the fund. Whenever the value of such assets equals less than \$900,000, after deducting all claims and requests for reimbursement against the fund, not disposed of at the date of valuation, and all expenses properly chargeable against the fund, a special assessment as set forth in rule 39.6(4) will be payable for the next calendar year after the date of the certificate of sufficiency. This special assessment will be paid in lieu of the regular assessment set in rule 39.6(2) by each member of the bar who has already paid the \$200 initial assessment.

Comment: The November 26, 2013, amendment to new rule 39.6(3), raising the threshold used to calculate the sufficiency of the fund, is effective for the sufficiency calculation to be performed beginning December 1, 2013.

- **39.6(4)** Special assessment. For any calendar year in which a special assessment is payable in lieu of the regular assessment set in rule 39.6(2), the special assessment is established as follows:
- a. Lawyers in full-time private practice. Members of the bar of Iowa in full-time private practice must pay to the commission a special assessment of \$140.
- b. Lawyers in part-time private practice. Members of the bar of Iowa who derive net income of less than \$10,000 from the practice of law in Iowa during the preceding calendar year must pay to the commission a special assessment of \$70. Net income from the practice of law for the purposes of this rule is that amount shown on the federal income tax return of such members for the appropriate year as "profit or loss from a business or profession." The commission may require members so electing to submit to the commission a copy of their federal income tax return for the appropriate year to substantiate the amount due hereunder.
- c. Judges, government attorneys, corporate counsel. Any member of the bar of Iowa who certifies in writing to the commission that the member is a justice, judge, associate judge, or full-time magistrate of any court, or one who performs legal services only for a governmental unit, or one who performs legal services only for a particular person, firm, or corporation (other than a professional legal corporation or a law firm) and stands in the legal capacity with such person, firm, or corporation as an employee, must pay to the commission a special assessment of \$70. However, a retired judge or justice recalled for temporary service is not required to pay an assessment or surrender their certificate of exemption.
- **39.6(5)** *Multijurisdictional practitioners.* Lawyers practicing in Iowa under the provisions of rule of professional conduct 32:5.5(d)(2) and rule 39.16 must pay the same initial, regular, and special assessments as members of the bar of Iowa in private practice.
- **39.6(6)** *Members in full-time military service.* Any member of the bar of Iowa who certifies in writing that the member is serving full-time in the military service of the United States is exempt from any assessment under this rule.

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; November 26, 2013, effective December 26, 2013; April 25, 2014; August 19, 2016, effective September 1, 2016; December 13, 2017, effective January 1, 2018]

Rule 39.7 Exemption; retirement.

- **39.7(1)** Certificate of exemption. A member of the bar of the supreme court who is not engaged in the practice of law in the State of Iowa may be granted a certificate of exemption by the commission, and thereafter no fee or assessment except for an annual exemption fee of \$50 and late filing penalties will be required from such member unless the member thereafter engages in the practice of law in the State of Iowa, in which case the certificate of exemption must without further order of court stand revoked, and the member must file at once the statement required by rule 39.8(1) and the questionnaire required by rule 39.11 and pay the fee and assessment due under rules 39.5 and 39.6. A member of the bar requesting a certificate of exemption must file with the director such part of the rule 39.11 questionnaire as the executive director may deem necessary to determine the member's status. Applications for a certificate of exemption must be submitted concurrently under rules 39.7(1), 41.7, and 42.6.
- **39.7(2)** Certificate of relinquishment. A member of the bar of the supreme court who does not intend ever again to practice law in Iowa may be granted a certificate of relinquishment. Thereafter, no fee, assessment, annual statement, or questionnaire is required from such member. A member granted a certificate of relinquishment is not entitled to practice law in the State of Iowa and may not apply for reinstatement, but the member may be certified as an emeritus attorney under Iowa Court Rule 31.19. A member granted a certificate of relinquishment who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the Iowa Court Rules. A member of the bar requesting a certificate of relinquishment must file with the commission such part of the rule 39.11 questionnaire as the executive director may deem necessary to determine the member's status. Applications for a certificate of relinquishment must be submitted concurrently under rules 39.7(2) and 41.13.
- **39.7(3)** Practice of law. The practice of law as that term is employed in this chapter includes the following: examining abstracts; consummating real estate transactions; preparing legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; representing others in any Iowa courts;

the right to represent others in any Iowa courts; regularly preparing legal instruments; securing legal rights, advising others as to their legal rights or the effect of contemplated actions upon their legal rights, or holding oneself out to so do; instructing others in legal rights; and being a judge or one who rules upon the legal rights of others unless neither state nor federal law requires the person so judging or ruling to hold a license to practice law.

39.7(4) *Transition provisions.*

- a. The provisions of rule 39.7(1) regarding an annual \$50 fee for exempt practitioners and concurrent application for exempt status and of rule 39.7(2) regarding a separate fully relinquished status are effective January 1, 2018.
- b. On or before December 31, 2017, attorneys in active status may apply for and be granted exempt status without payment of an annual fee, or emeritus status under Iowa Court Rule 31.19.
- c. On or after January 1, 2018, attorneys in active status may apply for and be granted exempt status with payment of an annual fee, emeritus status under rule 31.19, or retired status under rule 39.7(2).
- d. Attorneys who are in exempt status as of December 31, 2017, will be accorded legacy status. Attorneys in legacy status will have no fee payment or reporting responsibilities. For a period of five years commencing January 1, 2018, and ending December 31, 2022, attorneys in legacy status may apply for conversion to exempt status, emeritus status under rule 31.19, relinquished status under rule 39.7(2), or reinstatement to active status under rule 39.14(3). On or after January 1, 2023, attorneys in legacy status are not entitled to apply for conversion to exempt status or apply for reinstatement to active status under rule 39.14(3), but they may apply for emeritus status under rule 31.19 or relinquished status under rule 39.7(2).

[Court Order November 9, 2001, effective February 15, 2002; December 5, 2007; August 19, 2016, effective September 1, 2016, rules 39.7(1) and 39.7(2), effective January 1, 2018; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021]

Rule 39.8 Enforcement.

39.8(1) To facilitate the collection of the annual fees and assessments provided for in rules 39.5, 39.6, 39.7(1), and 39.17, all members of the Iowa bar required to pay the fees and assessments must, on or before March 10 of each year, file a statement, on a form prescribed by the executive director, setting forth their date of admission to practice before the supreme court, their current residence and office addresses, and such other information as the executive director may from time to time direct. In addition to such statement, every bar member must file a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons admitted to practice before the supreme court must file the statement required by this rule at the time of admission but no annual fees or assessments are payable until the time above provided. All attorneys failing to file the required statement by March 10 of each year must, in addition to the annual fees and assessments provided for above, pay a penalty as set forth in the following schedule if the statement is filed after March 10. The penalty fees collected will be used to pay the costs of administering the fund, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty schedule:

If filed:	Penalty:
After March 10 but before April 12	\$100
After April 11 but before May 12	\$150
After May 11 but before June 12	\$200
After June 11	\$250

39.8(2) Attorneys who fail to timely pay the fees and assessments required under rules 39.5, 39.6, 39.7(1), and 39.17, or fail to file the statement or supplement thereto provided in rule 39.8(1), may have their right to practice law suspended by the supreme court, provided that at least 15 days prior to such suspension, a notice of delinquency has been served upon them in the manner provided for the service of original notices in Iowa Rule of Civil Procedure 1.305, or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys must be given the opportunity during said 15 days to file in duplicate in the office of professional regulation an affidavit disclosing facts demonstrating the noncompliance was not willful

and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of the clerk of the supreme court a request for hearing to show cause why their license to practice law should not be suspended. A hearing must be granted if requested. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney must be notified thereof by either of the two methods provided above for notice of delinquency.

- 39.8(3) Any attorney suspended pursuant to this chapter must do all of the following:
- a. Within 15 days in the absence of co-counsel, notify clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney.
- b. Within 15 days, deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.
 - c. Within 30 days, refund any part of any fees paid in advance that have not been earned.
- d. Within 15 days, notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties, of the suspension and consequent disqualification to act as a lawyer after the effective date of such discipline.
- e. Within 15 days, file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.
 - f. Keep and maintain records of the steps taken to accomplish the requirements of this rule.
- g. Within 30 days, file with the supreme court and with the Iowa Supreme Court Attorney Disciplinary Board proof of complete performance of the foregoing, which is a condition for application for readmission to practice.
- **39.8(4)** Any attorney suspended pursuant to this chapter must refrain during such suspension from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, conservatorship, or guardianship of any person related to the suspended attorney within the second degree of affinity or consanguinity.
- **39.8(5)** Attorneys who have been suspended pursuant to this chapter or who currently hold a certificate of exemption or certificate issued pursuant to rule 39.7(2) and who practice law or who hold themselves out as being authorized to practice law in this state are engaged in the unauthorized practice of law and may also be held in contempt of the court or may be subject to disciplinary action as provided by chapter 35 of the Iowa Court Rules.
- **39.8(6)** Copy of application for reinstatement. An attorney who has been summarily suspended under this rule must file an application with the clerk of the supreme court for reinstatement, and a copy of said application must be forwarded to the director of the office of professional regulation and to the Iowa Supreme Court Attorney Disciplinary Board at least 10 days prior to any action upon the application.

Comment: Rule 39.8(6) formerly appeared as Iowa Court Rule 40.7. [Court Order December 13, 2017, effective January 1, 2018]

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; April 25, 2008; June 5, 2008, effective July 1, 2008; January 19, 2010; April 25, 2014; November 20, 2015, effective January 1, 2016; August 19, 2016, effective September 1, 2016; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021]

Rule 39.9 Claims.

- **39.9(1)** The commission will consider for payment all claims resulting from the dishonest conduct of a member of the bar of this state acting either as an attorney or fiduciary, provided that all of the following are established:
- a. The conduct was engaged in while the attorney was a practicing member of the bar of this state, and the claim arises out of the practice of law in this state. The commission must not consider any claim resulting from conduct engaged in after an attorney's license to practice in Iowa has been revoked. For purposes of this rule, a practicing member of the bar of this state is:
- (1) A member of the bar of Iowa whose license is active and in good standing at the time of the dishonest conduct giving rise to the claim.

- (2) A member of the bar of Iowa whose license has been suspended and whom the client reasonably believes to be licensed, active, and in good standing at the time of the dishonest conduct giving rise to the claim. If the attorney has been suspended more than six months prior to the time of the dishonest conduct giving rise to the claim, it will be presumed that the client was unreasonable in believing that the attorney was licensed, active, and in good standing at the time of the dishonest conduct.
- (3) An attorney who establishes an office or other systematic and continuous presence in Iowa for the practice of law under the provisions of rule of professional conduct 32:5.5(d)(2) and pays the annual fee and assessment due under rules 39.5 and 39.6.
 - b. Such defalcation or dishonest conduct occurred after January 1, 1974.
- c. The claim is made within one year after the client's discovery of the loss; provided, however, such time limitation in unusual circumstances may be extended by the commission in its discretion for good cause shown.
- d. The claim is made directly by or on behalf of the injured client or the client's personal representative or, if a corporation, by or on behalf of itself or its successors in interest.
- e. The commission is satisfied that there is no other source or collateral source for the reimbursement of the loss.
- f. The claim did not arise out of an employer-employee relationship as distinguished from a lawyer-client relationship or a fiduciary relationship.
- 39.9(2) The commission is invested with the power, which it will exercise in its sole discretion, to determine whether a claim merits reimbursement from the fund, and if so, the amount of such reimbursement, the time, place, and manner of its payment, the conditions upon which payment will be made, and the order in which payment will be made. The commission's powers in this respect may be exercised only by the affirmative vote of at least four commissioners. In making such determinations, the commission may consider among other appropriate factors, the following:
- a. The amounts available and likely to become available to the fund for the payment of claims and the size and number of claims which are likely to be presented.
- b. The total amount of reimbursable losses in previous years for which total reimbursement has not been made, if any, and the total assets of the fund.
- c. The amount of the claimant's loss as compared to the amount of losses sustained by other eligible claimants.
 - d. The degree of hardship suffered by the claimant as a result of the loss.
 - e. The degree of negligence, if any, of the claimant which may have contributed to the loss.
- f. The total amount of losses caused by defalcations of any one attorney or associated group of attorneys.
- **39.9(3)** By regulation approved by the supreme court, the commission must fix the maximum amount that any one claimant may recover from the fund and the aggregate maximum amount that may be recovered because of the dishonest conduct of any one attorney.
- **39.9(4)** No claimant or any other person or organization has any right in the fund as third-party beneficiary or otherwise. Reimbursement by claim on the fund is a matter of grace and not of right.
- 39.9(5) The commission may require as a condition to payment that the claimant execute an assignment of claimant's right against the defaulting lawyer.
- **39.9(6)** No claimant need be represented by counsel before the commission. No attorney representing a claimant will receive a fee for services from the fund. Any agreement for compensation between a claimant and any attorney retained for prosecution of the claim is subject to the approval of the commission.
- **39.9**(7) The commission may request individual lawyers, bar associations, and other organizations of lawyers to assist the commission in the investigation of claims.
- 39.9(8) The payment or denial of any claim filed under the provisions of this rule is inadmissible as evidence in any disciplinary or contempt proceeding.
- [Court Order December 5, 1973; April 22, 1974; October 16, 1974; April 9, 1975; April 10, 1975; August 29, 1975; October 28, 1976; November 21, 1977; January 15, 1979; June 20, 1980; April 21, 1982; November 13, 1984; April 25, 1985; February 16, 1990, effective March 15, 1990; December 15, 1994, effective January 3, 1995; March 6, 1995; January 24, 2000; November 9, 2001, effective February 15, 2002; February 20, 2012; December 10, 2012; December 13, 2017, effective January 1, 2018]

Rule 39.10 Investigations; audits.

39.10(1) Each member of the bar of Iowa, in filing the statement required by rule 39.8(1), must authorize the executive director to investigate, audit, and verify all funds, securities, and other

property held in trust by the member, and all related accounts, safe deposit boxes, and any other forms of maintaining trust property as required by Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the Iowa Court Rules, together with deposit slips, canceled checks, and all other records pertaining to transactions concerning such property.

- **39.10(2)** Each member of the bar of Iowa must comply promptly with any request by the executive director to execute and deliver to the director a written authorization, directed to any bank or depository, for the director to audit and inspect such accounts, safe deposit boxes, securities, and other forms of maintaining trust property by the member in such bank or other depository.
 - **39.10(3)** Each member of the bar of Iowa must do all of the following:
- a. Cooperate fully with the executive director in any investigation, audit, or verification of any funds, securities, or property held in trust by that lawyer.
- b. Answer all questions posed by the executive director that relate to any investigation, audit, or verification, unless claiming the privilege against self-incrimination.
- c. Retain complete records of all trust fund transactions for a period of not less than six years following completion of the matter to which they relate, in accordance with Iowa Rule of Professional Conduct 32:1.15 and Iowa Court Rule 45.2(3).
- **39.10(4)** The commission with the approval of the supreme court may retain, compensate from the fund, and furnish as staff for the executive director, such public or certified accountants, investigators, or attorneys as may be deemed necessary to carry out the duties and functions imposed upon the executive director. When acting under the executive director's supervision and direction, such staff personnel have all the powers granted to the executive director by this chapter.
- **39.10(5)** When the investigation, audit, or verification provisions of this chapter disclose, in the opinion of the executive director, a violation of the Iowa Rules of Professional Conduct, or when the member of the bar of Iowa affected by the investigation, audit, or verification has refused to comply with the provisions of this chapter, the director must promptly report such circumstances to the commission. A copy of such report must be furnished to the member affected.
- **39.10(6)** Client trust funds and property held by an Iowa licensed attorney whose law office is situated in another state are not subject to investigation, audit, or verification except to the extent such funds and property are related to matters affecting Iowa clients. State or federal funds or property subject to state or federal auditing procedures and in control of an Iowa licensed attorney employed full- or part-time by a state or the United States are not subject to investigation, audit, or verification under the provisions of this chapter.
- **39.10(7)** The costs of performing a trust account audit must be assessed to the attorney or attorneys who are signatories on the account if the audit reveals the account was not in substantial compliance with Iowa Rule of Professional Conduct 32:1.15 or chapter 45 of the Iowa Court Rules, and one or more of the following circumstances caused performance of the audit:
- a. A claim for reimbursement was filed under the provisions of rule 39.9 based on the alleged conduct of the attorney or attorneys who are signatories on the account.
- b. A notice of insufficient funds to honor an instrument drawn on the account was reported to the commission under the provisions of Iowa Court Rule 45.4(4)(c).
- c. A complaint alleging an attorney signatory on the account committed a disciplinary infraction was filed with the attorney disciplinary board under the provisions of Iowa Court Rule 35.1.
- d. An attorney signatory on the account was suspended from practice under the provisions of chapter 35 of the Iowa Court Rules.
- e. An attorney signatory on the account failed to timely file the statement and questionnaire required by rule 39.8.
- f. An attorney signatory on the account was served a 15-day notice under rule 39.8(2) based on failure to cooperate with investigation and audit of the account as required by rule 39.10.
- g. A trustee was appointed under the provisions of Iowa Court Rule 34.17 or 34.18 for an attorney signatory on the account.
- h. An attorney signatory on the account was issued a certificate of noncompliance pursuant to Iowa Court Rule 34.20(1), 34.21(1), or 34.22(1).
 - i. The Client Security Commission specifically directed the audit.
- **39.10(8)** Costs assessed under rule 39.10(7) are due upon assessment by the commission. Costs assessed under this rule must be paid as a condition of reinstatement, and may be collected by the

commission as part of the annual statement and assessment required by rule 39.8 if not previously paid.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; November 20, 2015, effective January 1, 2016; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 39.11 Annual questionnaire.

- **39.11(1)** The executive director, under the supervision of the supreme court and the commission, will prepare a questionnaire to be annually submitted to and completed by each member of the bar of Iowa, except those who have been issued a certificate of exemption pursuant to rule 39.7. The questionnaire may be, but is not required to be, incorporated as a part of the annual statement provided in rule 39.8(1). This purpose of this questionnaire is to elicit information to determine whether the member is complying with the Iowa Court Rules, including but not restricted to, Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the rules. The commission may prescribe an electronic format for the questionnaire and annual statement and require submission of the questionnaire and annual statement in that form.
- **39.11(2)** A failure to complete and return a questionnaire will be addressed as provided in rule 39.12.

[Court Order November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; December 5, 2007; June 5, 2008, effective July 1, 2008; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 39.12 Investigations; audits; annual questionnaire; enforcement.

39.12(1) Failure of bar members to cooperate.

- a. The right of a member of the Iowa bar to practice law in this state is conditioned upon the member executing and delivering the authorization provided in rule 39.10(2), furnishing the cooperation required in rule 39.10(3), and completing and returning the annual questionnaire described in rule 39.11. Upon failure of a member of the Iowa bar to comply with any of the rules specified in this paragraph, the member's right to practice law before Iowa courts may be suspended, following the procedure specified in rule 39.8(2).
- b. A member of the bar of Iowa who willfully fails to comply with the rules enumerated in rule 39.12(1)(a) may be held in contempt of the supreme court or may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules.
 - **39.12(2)** *Violation of the Iowa Rules of Professional Conduct.*
- a. When the audit, investigation, or verification of funds, securities, or other property held in trust by any member of the bar of Iowa, or an answer of any member on the annual questionnaire, discloses an apparent violation of the Iowa Rules of Professional Conduct, the director upon request of the commission, or the commission, may privately admonish, refer to the Attorney Disciplinary Board, or institute disciplinary proceedings under chapter 36 of the Iowa Court Rules for the suspension or revocation of the member's license to practice law in this state.
- b. All information obtained by the director and staff by virtue of the audits, investigations and verifications, and annual questionnaire, must be held in strict confidence by them and by the supreme court and the commission unless otherwise directed by the supreme court or unless proceedings are initiated pursuant to chapter 36 of the Iowa Court Rules or Iowa Code section 602.10123. If proceedings are initiated pursuant to chapter 36 of the Iowa Court Rules, such information relating to the named respondent may be released only to the respondent, the disciplinary board, and the grievance commission. If proceedings are initiated pursuant to Iowa Code section 602.10123, such information relating to the named accused may be released only to the accused and the attorney general or the special assistant attorney general designated pursuant to Iowa Code section 602.10127, to prosecute the charges.
 - **39.12(3)** *Commission subpoena authority.*
- a. The commission has subpoen power during any investigation conducted on its behalf to compel the appearance of witnesses or the production of documents before the person designated to conduct the investigation on behalf of the commission.
- b. The commission chair, or other commission member in the absence of the chair, has the authority to issue a subpoena.

- c. The district court for the county in which the investigation is being conducted has jurisdiction over any objection or motion relating to a subpoena and authority to punish disobedience of a subpoena in a contempt proceeding.
- d. Counsel for the commission, the director, or any other person authorized to administer oaths has authority to administer an oath or affirmation to a witness.

 [Court Order December 5, 1973; September 19, 1974; October 16, 1974; April 9, 1975; April 30, 1982;

[Court Order December 5, 1973; September 19, 1974; October 16, 1974; April 9, 1975; April 30, 1982; August 14, 1986, and August 18, 1986, effective September 2, 1986; May 10, 1990, effective July 2, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 9, 2003; April 20, 2005, effective July 1, 2005; December 5, 2007; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 39.13 Attorneys acting as fiduciaries.

- **39.13(1)** After January 1, 1974, unless a lawyer is the spouse of or is the son-in-law or daughter-in-law of or is related by consanguinity or affinity within the third degree to the decedent in an estate, the ward in a conservatorship, the settlor or beneficiary of a trust, or unless such attorney is coexecutor, cotrustee, or coconservator with another party or parties and such other party or parties will receive and pay out any of the funds, securities or other property of the estate, trust, or conservatorship, such lawyer must not be appointed by a court in any fiduciary capacity for an estate, trust, or conservatorship until the lawyer has posted a bond in an amount to be determined by the court with sureties approved by the court, and no waiver of such bond will be recognized by any court of this state. In the event the surety on the bond posted by the lawyer is not a corporate surety, the surety thereon must not be the ward, any beneficiary or distributee or be related to the lawyer, the ward, or any beneficiary or distributee within the third degree of consanguinity or affinity.
- **39.13(2)** A lawyer who willfully fails to comply with the provisions of this rule may be held in contempt of the supreme court, or may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules.

[Court Order November 9, 2001, effective February 15, 2002; December 10, 2012; December 13, 2017, effective January 1, 2018]

Rule 39.14 Reinstatement from exemption or suspension.

- **39.14(1)** An attorney who has been suspended for failure to pay the annual fee or assessment or for failure to file the statement, supplement, or questionnaire required by these rules may be reinstated by filing the statement required by rule 39.8(1) and the questionnaire required by rule 39.11. An attorney seeking reinstatement after suspension for failure to comply with the provisions of this rule must pay all delinquent fees, assessments and late filing penalties due under rules 39.5, 39.6, 39.8, and 39.17, and a reinstatement fee of \$100.
- **39.14(2)** An attorney who seeks or applies for reinstatement from suspension under chapters 34 or 36 of the Iowa Court Rules must first file the statement required by rule 39.8(1) and the questionnaire required by rule 39.11, pay all fees, assessments, and late filing penalties due and unpaid under rules 39.5, 39.6, 39.8, and 39.17, pay the current fee and assessment required by rules 39.5 and 39.6, and pay a reinstatement fee of \$100.
- **39.14(3)** An attorney who has been granted a certificate of exemption under the provisions of rule 39.7 may be reinstated after filing the statement required by rule 39.8(1) and the questionnaire required by rule 39.11, paying all fees, assessments, and late filing penalties due and unpaid, and paying the current fee and assessment required by rules 39.5 and 39.6.

[Court Order April 25, 2008; August 10, 2009; November 20, 2015, effective January 1, 2016; December 10, 2012; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021]

Rule 39.15 Denial of reinstatement for failure to comply with certain obligations.

- **39.15(1)** Denial of reinstatement for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. The supreme court may deny an attorney's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. The procedure is governed by Iowa Court Rule 34.22.
- **39.15(2)** Denial of reinstatement for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The supreme court may deny an attorney's application

for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The procedure is governed by Iowa Court Rule 34.21.

39.15(3) Denial of reinstatement for failure to comply with a support order. The supreme court may deny an attorney's application for reinstatement under rule 39.14 for failure to comply with a support order. The procedure is governed by Iowa Court Rule 34.20.

[Court Order June 5, 2008, effective July 1, 2008; February 20, 2012; December 13, 2017, effective January 1, 2018]

Rule 39.16 Attorneys practicing in Iowa under the multijurisdictional practice rule. An attorney who establishes an office or other systematic and continuous presence in Iowa for the practice of law under the provisions of rule of professional conduct 32:5.5(d)(2) must file the annual statement required by rule 39.8(1) and annual questionnaire required by rule 39.11, pay the annual fee and assessment due under rules 39.5 and 39.6, comply with all provisions of chapter 45 of the Iowa Court Rules, cooperate with investigations and audits under rule 39.10, and be subject to the provisions of rules 39.12 and 39.17.

[Court Order December 10, 2012; December 13, 2017, effective January 1, 2018]

Rule 39.17 Collection of court costs and other fees.

- **39.17(1)** As a part of the annual statement provided by rule 39.8(1), the office of professional regulation must assess against each active attorney all fees, penalties, or court costs due any district court clerk or the clerk of the supreme court, or the office of professional regulation, and any client security trust fund claim reimbursement due the Client Security Commission, that are a personal obligation of such attorney, as of the preparation date of the annual statement.
- **39.17(2)** As a condition to continuing or regaining membership in the bar of the supreme court, including the right to practice before Iowa courts, every bar member must pay to the supreme court through the office of professional regulation, all fees, penalties, court costs, and client security trust fund claim reimbursements assessed on the annual statement.
 - **39.17(3)** Assessments are due on or before March 10 of each year.
- **39.17(4)** The executive director of the office of professional regulation must pay to the state general fund all fees, penalties, and court costs due the state general fund and collected under this provision.

[Court Order November 20, 2015, effective January 1, 2016; December 10, 2012; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 39.18 Requirement for death or disability designation and authorization.

39.18(1) Required designation and authorization in annual questionnaire.

- a. Each attorney in private practice must identify and authorize each year, as part of the annual questionnaire required by rule 39.11, a qualified attorney-servicing association, an Iowa law firm that includes Iowa attorneys in good standing, or an active Iowa attorney in good standing, to serve as the attorney's designated representative or representatives under this rule. An attorney may identify and authorize an Iowa law firm of which the attorney is a member to serve under this rule.
- b. The attorney or entity designated under this rule is authorized to review client files, notify each client of the attorney's death or disability, and determine whether there is a need for other immediate action to protect the interests of clients.
- c. The attorney or entity designated under this rule also is authorized to serve as a successor signatory for any client trust account maintained by the private practitioner under Iowa Court Rule 45.11, prepare final trust accountings for clients, make trust account disbursements, properly dispose of inactive files, and arrange for storage of files and trust account records.
- d. The authority of the attorney or entity designated under this rule takes effect upon the death or disability of the designated attorney. The designated attorney or entity may apply to the chief judge of the judicial district in which the designating attorney practiced for an order confirming the death or disability of the designating attorney. A copy of the order will be delivered to the office of professional regulation.
- **39.18(2)** Client list and location of key information. Each attorney in private practice must maintain a current list of active clients, in a location accessible by the attorney or entity designated under this rule. As part of the annual questionnaire required by rule 39.11, each attorney in private practice must identify a person with knowledge of the location of the client list, a person with knowledge of the location of electronic and paper files and records, and a person with knowledge

of the location of passwords and other security protocols required to access the electronic files and records. The attorney or entity designated under this rule is authorized to access electronic and paper files and records as necessary to perform duties as a designated attorney, and is authorized to access passwords and other security protocols required to access those electronic files and records.

- **39.18(3)** Supplemental plan. An attorney in private practice may prepare a written plan that is supplemental to the designation and authority in the annual client security questionnaire. The supplemental written plan may designate an attorney or entity to collect fees, pay firm expenses and client costs, compensate staff, terminate leases, liquidate or sell the practice, or perform other law firm administration tasks. The supplemental written plan also may nominate an attorney or entity to serve as trustee if proceedings are commenced under the provisions of Iowa Court Rule 34.17 or 34.18.
- **39.18(4)** *Durability.* A designation or plan under this rule must include language sufficient to make the designated attorney's or entity's powers durable in the event of the private practitioner's disability. *See* Iowa Code §633B.104; Iowa R. Prof'l Conduct 32:1.3 cmt. [5].
- **39.18(5)** Conflicts of interest. A designated attorney or entity must not examine any documents or acquire any information containing real or potential conflicts with the designated attorney's clients. Should any such information be acquired inadvertently, the designated attorney or entity must, as to such matters, protect the privacy interests of the planning attorney's clients by prompt recusal or refusal of employment.
- **39.18(6)** Availability of trustee provisions. A designated attorney or entity may petition the court, at any time, for appointment as the trustee or appointment of an independent trustee under the provisions of Iowa Court Rule 34.17 or 34.18, as applicable.
 - **39.18**(7) *Definitions*. For purposes of this rule, the following definitions apply:
- a. A "qualified attorney-servicing association" is a bar association, all or part of whose members are admitted to practice law in the State of Iowa, a company authorized to sell attorneys professional liability insurance in Iowa, or an Iowa bank with trust powers issued by the Iowa Division of Banking.
- b. A "law firm" is a minimum of two attorneys in a law partnership, professional corporation, or other association authorized to practice law.
- c. An "attorney in private practice" includes an active Iowa attorney who resides outside Iowa but engages in the private practice of law in Iowa.

[Court Order November 20, 2015, effective January 1, 2016; November 24, 2015, effective March 1, 2016; January 15, 2016, effective January 1, 2017; August 29, 2016, effective January 1, 2018; November 18, 2016, effective December 25, 2017; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]

CHAPTER 40 REGULATIONS OF THE CLIENT SECURITY COMMISSION

Rule 40.1	Definitions
Rule 40.2	Applications for reimbursement
Rule 40.3	Processing applications
Rule 40.4	Subrogation for reimbursement made
Rule 40.5	General purposes
Rule 40.6	General provisions

CHAPTER 40 REGULATIONS OF THE CLIENT SECURITY COMMISSION

Rule 40.1 Definitions. For the purpose of this chapter, the following definitions apply:

"Commissioner" means the commissioners of the Client Security Commission.

"Dishonest conduct" means wrongful acts committed by a lawyer against a person in the manner of defalcation or embezzlement of money, or the wrongful taking or conversion of money, property or other things of value.

"Fund" means the Clients' Security Trust Fund of the Bar of Iowa.

"Lawyer" means one who, at the time of the act complained of, had the right to practice law in the State of Iowa. The fact that the act complained of took place outside of Iowa does not necessarily mean that the lawyer was not engaged in the practice of law in Iowa.

"Reimbursable losses" means those losses as set out in Iowa Court Rule 39.9.

[Court Order November 9, 2001, effective February 15, 2002; July 1, 2005; December 13, 2017, effective January 1, 2018]

Rule 40.2 Applications for reimbursement.

40.2(1) The commissioners must prepare a form of application for reimbursement. In their discretion, the commissioners may waive a requirement that a request be filed on such form.

40.2(2) The form must require, at a minimum, the following information:

- a. The name and address of the lawyer.
- b. The amount of the alleged loss claimed.
- c. The date or period of time during which the alleged loss was incurred.
- d. Name and address of the party requesting reimbursement.
- e. The general statement of facts relative to the request for reimbursement.
- f. Verification by the party requesting reimbursement.
- **40.2(3)** The form or application must contain the following statement in bold type:

In establishing the Clients' Security Trust Fund of the Bar of Iowa the Iowa Supreme Court did not create, nor acknowledge any legal responsibility for the acts of individual lawyers in the practice of law. All reimbursements of losses of the Clients' Security Trust Fund of the Bar of Iowa are a matter of grace in the sole discretion of the commissioners administering the fund and not a matter of right. No client or any other person or organization has any right in the fund as a third-party beneficiary or otherwise.

40.2(4) Applications must be in the form attached and must be addressed to the Client Security Commission, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319. [Court Order November 9, 2001, effective February 15, 2002; April 9, 2003; July 1, 2005; December 5, 2007; December 13, 2017, effective January 1, 2018]

Rule 40.3 Processing applications.

- **40.3(1)** The executive director of the office of professional regulation will cause each such application to be sent to the commissioners or other parties or organizations for investigation and report. A copy must be served upon or sent by certified mail to the lawyer, at the lawyer's last-known address, who it is claimed committed the dishonest act. Whenever feasible, any investigative lawyer to whom such application is referred must not practice in the county wherein the alleged defalcating attorney practiced.
- 40.3(2) When, in the opinion of the person or persons to whom the application has been referred for investigation the application is clearly not for a reimbursable loss, no further investigation need be conducted, but a report with respect to such application must be made to the commission.
- **40.3(3)** The person or persons to whom a report is referred for investigation will conduct such investigation as to them seems necessary and desirable in order to determine whether the claim is for a reimbursable loss and in order to guide the commissioners in determining the extent, if any, to which the claim must be reimbursed from the fund. Any information so obtained by the person or persons will be used solely by or for the commissioners and will constitute confidential information. When information is received by the commission indicating an apparent violation of the criminal laws by a lawyer, such information must be reported to the attorney disciplinary board.
- **40.3(4)** Reports with respect to applications must be submitted by the executive director of the office of professional regulation to each member of the commission as soon as reasonably possible.

40.3(5) At the meetings of the commission the commissioners will conduct such investigation or review as seems necessary or desirable in order to determine whether the applications are for a reimbursable loss and to guide the commissioners in determining the extent, if any, to which the applicant may be reimbursed. After studying the summaries or applications to be processed, any commissioner may request that testimony be presented. Absent such recommendation or request, applications will be processed on the basis of information contained in the report of the person or persons who investigated such application and in the summary. In all cases, the alleged defalcating attorney or the attorney's personal representative must be given an opportunity to be heard by the commissioners if they so request.

40.3(6) The commission in its sole discretion will determine the amount of loss, if any, for which any person may be reimbursed from the fund. *See* Iowa Ct. R. 39.9(2). However, the maximum amount that any one claimant may recover from the fund is \$100,000 and the aggregate maximum amount which may be recovered from the fund because of the dishonest conduct of any one attorney is \$300,000.

Comment: The November 26, 2013, amendments of claim reimbursement limits apply only to claims arising from attorney conduct occurring on or after January 1, 2014. [Regulation amendment July 8, 1981; Court Order July 16, 1984; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; November 26, 2013, effective January 1, 2014; July 1, 2005; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 40.4 Subrogation for reimbursement made. In the event reimbursement is made to a person or organization, the fund will be subrogated to the person's or organization's rights in said amount, and the fund may bring such action as is deemed advisable against the lawyer, the lawyer's assets or estate, either in the name of the person, or in the name of the Clients' Security Trust Fund of the Bar of Iowa. The party receiving funds is required to execute a subrogation agreement in this regard. Upon commencement of an action by the fund pursuant to its subrogation rights, it must advise the reimbursed party at the party's last-known address. The reimbursed party may then join in such action to press a claim for any loss in excess of the amount of the above reimbursement, but the fund will have first priority to any recovery on such suit.

[Amended by Court Order December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 40.5 General purposes. In any given case, the commissioners may waive technical adherence to these regulations in order to achieve the objectives of the fund. [Court Order November 9, 2001, effective February 15, 2002]

Rule 40.6 General provisions. The annual report of the commissioners to the supreme court is public information after it is filed with the court. Upon prior approval of the commission, such information as the commission may approve concerning payments made to applicants for reimbursement, including information with regard to the lawyer involved and the facts upon which the reimbursement is made, may be released as public information. Other than as set out above, other information regarding applications for reimbursement, payments made by the fund, or any actions of the commissioners are not considered public information without the express prior approval of the court.

[Regulation Order January 4, 1974; February 15, 1979; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

CHAPTER 41 CONTINUING LEGAL EDUCATION FOR LAWYERS

Rule 41.1	Purpose
Rule 41.2	Continuing legal education commission
Rule 41.3	Continuing legal education requirement
Rule 41.4	Annual fee and report by attorneys to commission
Rule 41.5	Penalty for failure to satisfy continuing legal education requirements
Rule 41.6	Confidentiality
Rule 41.7	Inactive practitioners
Rule 41.8	Application of this chapter
Rule 41.9	Attendance exemption for out-of-state attendance of equivalent hours
Rule 41.10	Reinstatement from suspension
Rule 41.11	Denial of reinstatement for failure to comply with certain obligations
Rule 41.12	Basic skills course requirement
Rule 41.13	Retired practitioners

CHAPTER 41 CONTINUING LEGAL EDUCATION FOR LAWYERS

Rule 41.1 Purpose. Only by continuing their legal education throughout their period of the practice of law can attorneys fulfill their obligation competently to serve their clients. Failure to do so will be grounds for disciplinary action by the supreme court. This chapter establishes minimum requirements for such continuing legal education and the means by which the requirements will be enforced. [Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 41.2 Continuing legal education commission.

- **41.2(1)** There is hereby established a Commission on Continuing Legal Education (commission) consisting of 12 members. The supreme court will appoint to the commission 10 resident members of this state who are currently licensed to practice law in the State of Iowa, and 2 residents of this state who are not attorneys. The court must designate from among the members of the commission a chair who will serve at the pleasure of the court. All members, except for those appointed to fill unexpired terms, are appointed for a term of three years. No member can serve more than two consecutive complete terms as a member of the commission. The supreme court may adopt rules and regulations governing the operations and activities of the commission.
 - 41.2(2) The commission has the following duties:
 - a. To exercise general supervisory authority over the administration of this chapter.
- b. To accredit courses, programs, and other educational activities that will satisfy the educational requirements of this chapter; all being subject to continuous review by the commission.
 - c. To foster and encourage the offering of such courses, programs and educational activities.
- d. To submit to the supreme court proposed rules and regulations not inconsistent with this chapter to govern the operations and activities of the commission. See chapter 42 of the Iowa Court Rules.
- e. Subject to the approval of the supreme court, to employ such persons as it deems necessary for the proper administration of this chapter.
- f. To make recommendations to the supreme court concerning this chapter and the enforcement thereof.
- g.. To present an annual budget and a recommended annual fee for costs of administering this chapter.
- h.. To report promptly to the supreme court concerning any violation of this chapter by any member of the bar of this state.
- i.. To file with the supreme court on March 1 of each year, and at such additional times as the supreme court may order, a written report reviewing in detail the activities of the commission during the preceding calendar year together with an audit of commission funds certified by a certified public accountant licensed to practice in Iowa.
- **41.2(3)** Members of the commission will not be compensated but may be reimbursed for expenses incurred by them in the performance of their duties upon vouchers approved by the supreme court. [Court Order April 9, 1975; July 5, 1978; November 13, 1984; November 14, 1985; November 11, 1986; November 19, 1987; November 21, 1988; November 16, 1989; November 9, 2001, effective February 15, 2002; February 22, 2002; December 5, 2007; December 13, 2017, effective January 1, 2018]

Rule 41.3 Continuing legal education requirement.

- **41.3(1)** Each attorney admitted to practice in this state must complete a minimum of 15 hours of legal education accredited by the commission during each calendar year. The commission is authorized pursuant to guidelines established by the supreme court to determine the number of hours for which credit will be given for particular courses, programs, or other legal education activities. Under rules to be promulgated by the supreme court, an attorney may be given credit in one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited education during any one calendar year.
- **41.3(2)** Beginning January 1, 2021, the 15 hours required by rule 41.3(1) must include a minimum of 1 hour devoted exclusively to the area of legal ethics and 1 hour devoted exclusively to the area of either attorney wellness or diversity and inclusion. Excess hours of education devoted to legal ethics, attorney wellness, and diversity and inclusion can be carried over for purposes of the annual

15-hour requirement under rule 41.3(1) but cannot be carried over for the special legal ethics, attorney wellness, and diversity and inclusion requirements under this rule.

[Court Order April 9, 1975; December 6, 1978; January 8, 1988; November 9, 2001, effective February 15, 2002; February 22, 2002; February 21, 2012; March 21, 2014; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; August 28, 2020]

Rule 41.4 Annual fee and report by attorneys to commission.

- **41.4(1)** On or before March 10 of each year, each attorney admitted to practice in this state must pay to the commission a prescribed fee for costs of administering this chapter.
- **41.4(2)** On or before March 10 of each year, each attorney admitted to practice in this state must make a written report to the commission, in such form as the commission prescribes, concerning completion of accredited legal education during the preceding calendar year. However, an attorney is not required to comply with this rule or comply with the continuing legal education requirements set forth in rule 41.3 for the year during which the attorney was admitted to practice in this state. Each annual report must be accompanied by proof satisfactory to the commission that the attorney has met the requirements for continuing legal education for the calendar year for which such report is made.
- **41.4(3)** Each attorney admitted to practice in this state must make a written report to the commission, in such form as the commission prescribes, concerning completion of accredited legal ethics, attorney wellness, and diversity and inclusion education. The report is to be filed on or before March 10 of each year. An attorney is not required to comply with this requirement for the year of admission to practice.
- **41.4(4)** All attorneys who fail by March 10 of each year to file the annual report or to pay the prescribed fee must, in addition, pay a penalty as set forth in the following schedule if either the annual report is filed or the prescribed fee is paid after March 10. The penalty fees collected must be used to pay the costs of administering this chapter, or for such other purposes within the office of professional regulation as the supreme court may direct.

Penalty schedule:

If filed:	Penalty:
After March 10 but before April 12	\$100
After April 11 but before May 12	\$150
After May 11 but before June 12	\$200
After June 11	\$250

41.4(5) The commission may prescribe an electronic format for the annual report and require submission of the report in that form.

[Court Order April 9, 1975; August 28, 1975; August 12, 1980; January 8, 1988; January 24, 2000; November 9, 2001, effective February 15, 2002; April 25, 2008; June 5, 2008, effective July 1, 2008; January 19, 2010; April 25, 2014; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

Rule 41.5 Penalty for failure to satisfy continuing legal education requirements.

- 41.5(1) Attorneys who fail to comply with the provisions of rule 41.4 or who file a report showing on its face that they have failed to complete the required number of hours of continuing legal education may have their right to practice law suspended by the supreme court, provided that at least 15 days prior to such suspension, notice of such delinquency has been served upon them in the manner provided for the service of original notices in Iowa Rule of Civil Procedure 1.305 or has been forwarded to them by restricted certified mail, return receipt requested, addressed to them at their last-known address. Such attorneys must be given the opportunity during said 15 days to file in the office of professional regulation an affidavit disclosing facts demonstrating their noncompliance was not willful and tendering such documents and sums and penalties which, if accepted, would cure the delinquency, or to file in duplicate in the office of clerk of the supreme court a request for hearing to show cause why their license to practice law should not be suspended. A hearing must be granted if requested. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, an attorney is suspended, the attorney will be notified thereof by either of the two methods above provided for notice of delinquency.
 - **41.5(2)** Any attorney suspended pursuant to this chapter must do all of the following:

- a. Within 15 days in the absence of co-counsel, notify clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney.
- b. Within 15 days, deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.
 - c. Within 30 days, refund any part of any fees paid in advance that have not been earned.
- d. Within 15 days, notify opposing counsel in pending litigation or, in the absence of such counsel, the adverse parties, of the suspension and consequent disqualification to act as an attorney after the effective date of such discipline.
- e. Within 15 days, file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.
 - f. Keep and maintain records of the steps taken to accomplish the requirements of this rule.
- g. Within 30 days, file with the supreme court and with the Iowa Supreme Court Attorney Disciplinary Board proof of complete performance of the foregoing, which is a condition for application for readmission to practice.
- **41.5(3)** Any attorney suspended pursuant to this chapter must refrain during such suspension from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, conservatorship, or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.
- **41.5(4)** In addition, any attorney who willfully fails to comply with this chapter may be subject to disciplinary action as provided in chapter 35 of the Iowa Court Rules, upon report filed by the commission with the disciplinary board.
- 41.5(5) For good cause shown, the commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the requirements or make the required reports.

[Court Order April 9, 1975; November 21, 1977; December 6, 1978; January 15, 1979; August 12, 1980; April 25, 1985; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; April 25, 2008; June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

- Rule 41.6 Confidentiality. Unless otherwise directed by the supreme court, the files, records and proceedings of the commission, as they relate to or arise out of any failure of any attorney to satisfy the requirements of this chapter, are deemed confidential and must not be disclosed, except in furtherance of the commission's duties or upon the request of the attorney affected, or as they may be introduced in evidence or otherwise produced in proceedings taken in accordance with this chapter. [Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]
- Rule 41.7 Inactive practitioners. A member of the bar who is not engaged in the practice of law in the State of Iowa as defined in Iowa Court Rule 39.7, upon application to the commission, may be granted a waiver of compliance with this chapter and obtain a certificate of exemption. No person holding such certificate of exemption is permitted to practice law in this state until reinstated. The supreme court will make rules and regulations governing the continuing legal education requirements for reinstatement of attorneys who, for any reason, have not been entitled to practice law in this state for any period of time subsequent to their admission to the bar. Applications for a certificate of exemption must be submitted concurrently under Iowa Court Rules 39.7 and 42.6 and this rule. [Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; August 19, 2016, effective January 1, 2018; December 13, 2017, effective January 1, 2018]
- **Rule 41.8 Application of this chapter.** This chapter applies to every person licensed to practice law in the State of Iowa.

[Court Order April 9, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 41.9 Attendance exemption for out-of-state attendance of equivalent hours.

- **41.9(1)** An active member of the bar who resides in another state or the District of Columbia, did not practice law in Iowa during the reporting period, and who attends at least 15 clock-hours of continuing legal education accredited by the continuing legal education regulatory body in his or her state of residence, including 1 clock-hour in the area of legal ethics and 1 clock-hour of either attorney wellness or diversity and inclusion is exempt from the attendance requirements of rule 41.3. However, any member exempt from attendance under this rule must file the annual report and pay the annual fee required under rule 41.4, and must certify qualification for the exemption on the annual report.
- **41.9(2)** The commission may require any member who claims exemption under this rule to provide proof of attending the accredited continuing legal education in the other jurisdiction.
- **41.9(3)** The practice of law as that term is employed in this rule includes: the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; representation of others in any Iowa courts; regular preparation of legal instruments, securing of legal rights, advising others as to their legal rights or the effect of contemplated actions upon their legal rights, or holding oneself out to so do; instructing others in legal rights; being a judge or one who rules upon the legal rights of others unless neither the state nor federal law requires the person so judging or ruling to hold a license to practice law. [Court Order November 20, 2015, effective January 1, 2016; October 24, 2019, effective January 1, 2020]

Rule 41.10 Reinstatement from suspension.

- **41.10(1)** An attorney who has been suspended for failure to pay the annual fee, complete required continuing legal education, or file the annual report required by rule 41.4 may be reinstated by filing such report showing completion of all continuing legal education required by rules 41.3 and 42.2 through the end of the current calendar year. An attorney seeking reinstatement after suspension for failure to comply with the provisions of this rule must pay all delinquent fees and late filing penalties due under rule 41.4 and a reinstatement fee of \$100.
- **41.10(2)** An attorney who seeks or applies for reinstatement from suspension under the provisions of chapter 35 of the Iowa Court Rules must first file the annual report required by rule 41.4 showing completion of all continuing legal education required by rules 41.3 and 42.2 through the end of the current calendar year, pay all fees and late filing penalties due under rule 41.4 and unpaid at the time of the suspension, and pay a reinstatement fee of \$100. The commission may grant an attorney additional time after the effective reinstatement date, on such terms and conditions as it may prescribe, to complete and furnish evidence of compliance with these continuing legal education requirements. [Court Order April 25, 2008; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; September 14, 2021, effective October 1, 2021]

Rule 41.11 Denial of reinstatement for failure to comply with certain obligations.

- **41.11(1)** Denial of reinstatement for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. The supreme court may deny an attorney's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the Central Collection Unit of the Iowa Department of Revenue. The procedure is governed by Iowa Court Rule 34.21.
- **41.11(2)** Denial of reinstatement for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The supreme court may deny an attorney's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the Iowa College Student Aid Commission. The procedure is governed by rule Iowa Court Rule 34.21
- **41.11(3)** Denial of reinstatement for failure to comply with a support order. The supreme court may deny an attorney's application for reinstatement under rule 41.7 or 41.10 for failure to comply with a support order. The procedure is governed by Iowa Court Rule 34.20. [Court Order June 5, 2008, effective July 1, 2008; February 20, 2012; December 13, 2017, effective January 1, 2018]

Rule 41.12 Basic skills course requirement.

41.12(1) Every Iowa attorney admitted to practice by examination after December 31, 2008, but before January 1, 2015, must complete a Basic Skills Course. The course must be completed within

one year of the newly admitted attorney's date of admission to practice in Iowa. The course may be completed after the last day of the bar examination that resulted in admission. If the course is completed after the last day of the bar examination, but the applicant fails the examination, the applicant will remain in compliance with this rule so long as the applicant passes the next examination offered.

41.12(2) The Basic Skills Course must total at least eight actual hours of instruction and include at least one actual hour qualifying for credit in the area of legal ethics. The course will include instruction on Iowa law selected from at least eight of the following topic areas:

Civil Procedure

Criminal Law

Criminal Procedure

Family Law

Guardianships, Conservatorships, Trusts, and Powers of Appointment

Business Entities

Probate

Torts

Contracts

Real Estate Transactions

Ethics and Professionalism

- **41.12(3)** Newly admitted attorneys shall be entitled to claim credit for attendance at an accredited Basic Skills Course against the continuing legal education requirements of rules 41.3 and 42.2, but are not exempt from reporting and fee payment duties of rule 41.4.
- **41.12(4)** An attorney who fails to complete the Basic Skills Course within one year of the date of admission may have the right to practice law suspended under the provisions of rule 41.5.
- **41.12(5)** The commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the Basic Skills Course requirement or extensions of time in which to complete the Basic Skills Course.
- **41.12(6)** The Basic Skills Course may be offered by any provider of continuing legal education, but must be reviewed and accredited by the Commission on Continuing Legal Education as provided in Iowa Court Rule 42.4. The Basic Skills Course may be conducted in installments over time, and may be offered by computer-based transmission as provided in Iowa Court Rule 42.3. Any provider of the Basic Skills Course is required to report attendance in the manner specified by the commission. [Court Order October 9, 2009; November 24, 2010; January 21, 2015; December 13, 2017, effective January 1, 2018]

Rule 41.13 Retired practitioners.

41.13(1) Certificate of relinquishment. A member of the bar of the supreme court who does not intend ever again to practice law in Iowa may be granted a certificate of relinquishment. Thereafter, no continuing legal education, annual report, or annual fee is required from such member. A member granted a certificate of relinquishment is not entitled to practice law in the State of Iowa and may not apply for reinstatement, but the member may be certified as an emeritus attorney under Iowa Court Rule 31.19. A member granted a certificate of relinquishment who desires to again practice law other than as an emeritus attorney must seek admission under the provisions of chapter 31 of the Iowa Court Rules. A member of the bar requesting a certificate of relinquishment must file with the director an application in such form as the director may deem necessary to determine the member's status. Applications for a certificate of relinquishment must be submitted concurrently under rules 39.7(2) and 41.13(1).

41.13(2) *Transition provisions.*

- a. The provisions of rule 41.13(1) regarding a separate fully relinquished status and the provisions of rules 41.7 and 42.6 regarding concurrent applications for exempt status are effective January 1, 2018.
- b. On or before December 31, 2017, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6 or emeritus status under rule 31.19.
- c. On or after January 1, 2018, attorneys in active status may apply for and be granted exempt status under rules 41.7 and 42.6, emeritus status under rule 31.19, or relinquished status under rule 41.13(1)
- d. Attorneys in active status under rules 41.7 and 42.6 but exempt status under rule 39.7 as of December 31, 2017, will be administratively transferred to exempt status under rules 41.7 and 42.6

as of January 1, 2018. Attorneys administratively transferred to exempt status under this provision nonetheless will be allowed to record their continuing legal education attendance on their attorney account pages while in exempt status.

account pages while in exempt status. [Court Order August 19, 2016, effective September 1, 2016, rule 41.13(1), effective January 1, 2018; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018]

CHAPTER 42 REGULATIONS OF THE COMMISSION ON CONTINUING LEGAL EDUCATION

Rule 42.1	Definitions
Rule 42.2	Continuing legal education requirements
Rule 42.3	Standards for accreditation
Rule 42.4	Accreditation of programs and activities
Rule 42.5	Hardships or extenuating circumstances
Rule 42.6	Exemptions for inactive practitioners
Rule 42.7	Reinstatement of inactive practitioners
Rule 42.8	Staff
Rule 42.9	Divisions
Rule 42.10	Hearings
Rule 42.11	Notice of failure to comply

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CHAPTER 42 REGULATIONS OF THE COMMISSION ON CONTINUING **LEGAL EDUCATION**

Rule 42.1 Definitions. For the purpose of these regulations, the following definitions apply:

- (1) "Accredited program or activity" means a continuing legal education activity meeting the standards set forth in rule 42.3, which has received accreditation by the commission pursuant to rule 42.4.
 - (2) "Attorney" means any person licensed to practice law in the State of Iowa.
 - (3) "Commission" means the Commission on Continuing Legal Education or any division thereof.
- (4) "Guidelines" means the requirements for accreditation of continuing legal education programs made available to sponsors and attorneys on the commission webpage.
- (5) "Hour" of continuing legal education means one clock-hour spent by an attorney in actual attendance at or completion of an accredited legal education activity.
- (6) "Legal ethics" means a separate, designated, and dedicated session of instruction referring to and based on the disciplinary rules or ethical considerations of the ethics or professional responsibility code for attorneys in the jurisdiction where the instruction is presented.
- (7) "Attorney wellness" means a separate, designated, and dedicated session of instruction designed to help attorneys detect, prevent, or respond to substance-related disorders or mental illness that impairs professional competence. The instruction must focus on issues in the legal profession and in the practice of law, and not issues of substance-related disorders or mental health in general; or
- (8) "Diversity and inclusion" means a separate, designated, and dedicated session of instruction regarding the impact of race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation on court system interaction or case or controversy outcome, and professional relationships between attorneys, judges, and clients where race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation is a potential factor.
- (9) "Unmoderated activity" means a continuing legal education (CLE) activity presented by delayed or on-demand transmission or broadcast, or pre-recorded media, that has an interactive component and is approved by the commission based on its guidelines. "Pre-recorded media," for purposes of this rule, includes but is not limited to audiotape, videotape, CD, podcast, CD-ROM, DVD, and self-paced computer-based instruction.
 - (10) "Quorum" of the entire commission means six or more members of the commission.
 - (11) "Moderated activity" includes the following:
- a. Standard (live). A live CLE activity presented in a suitable classroom setting devoted to the
- b. Satellite. A live CLE activity broadcast by satellite link to a classroom setting or a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.
- c. Video conference. A live CLE activity broadcast by cable, wire, or fiber optic link to a classroom setting or a central viewing or listing location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.
- d. Live webcast. A live CLE activity broadcast over the Internet in audio or audio plus video form to viewers at remote locations or at a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.
- e. Live teleconference. A live CLE activity broadcast over the telephone in audio or audio plus video form to listeners at remote locations or at a central viewing or listening location. The attorney must be able to contact the moderator or presenters during the activity to comment and ask questions.
- f. Video replay. A recorded CLE activity presented in audio plus video form in a suitable classroom setting or central viewing location to a broad attorney population. The attorney must be able to contact a live moderator during the activity to comment or ask questions.
- g. Audio replay. A recorded CLE activity presented in audio form in a suitable classroom setting, central listening location, or by telephone to a broad attorney population. The attorney must be able to contact a live moderator during the activity to comment or ask questions.
- [Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; February 20, 2012; August 24, 2012; March 21, 2014; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

Rule 42.2 Continuing legal education requirements.

- **42.2(1)** A minimum of 15 hours of continuing legal education must be completed by each attorney for each calendar year in the manner stated in Iowa Court Rule 41.3(1). Beginning January 1, 2021, at least one hour of these 15 hours must be devoted specifically to the area of legal ethics and at least one hour devoted specifically to the area of either attorney wellness or diversity and inclusion.
- **42.2(2)** Hours of continuing legal education credit may be obtained by attending or participating in a CLE activity, either previously accredited by the commission or which otherwise meets the requirements herein and is retroactively accredited by the commission pursuant to rule 42.4.
- **42.2(3)** Hours of continuing legal education credit may be awarded for preparation of an accredited continuing legal education presentation. An attorney is entitled to one hour of preparation credit for each hour of accredited continuing legal education for which they prepare written materials and present, up to a maximum of three hours per calendar year. Hours of preparation credit are credited against the regular attendance requirement of 15 hours per calendar year, but not against the attendance requirement for legal ethics, attorney wellness, and diversity and inclusion. Hours of preparation credit in excess of three do not carry over to a subsequent year. Preparation credit may not be awarded to:
- a. An attorney who prepares written materials without making the presentation or serving on a panel of speakers.
- b. An attorney who makes a presentation or serves on a panel of speakers without preparing written materials.
- c. An attorney who prepares a course directed primarily to persons preparing for admission to practice law.
- d. An attorney who receives compensation, other than reasonable expenses, for preparing or presenting the continuing legal education.
- **42.2(4)** An attorney desiring to obtain credit for one or more succeeding calendar years, not exceeding two such years, for completing more than 15 hours of accredited legal education during any one calendar year, under Iowa Court Rule 41.3(1), must report such "carry-over" credit at the time of filing the annual report to the commission on or before March 10 of the year following the calendar year during which the claimed additional legal education hours were completed. [Court Order November 25, 1975; December 6, 1978; January 8, 1988; November 9, 2001, effective February 15, 2002; March 21, 2014; April 25, 2014; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021]

Rule 42.3 Standards for accreditation.

- **42.3(1)** A CLE activity qualifies for accreditation if the commission determines that the activity complies with all of the following:
- a. It constitutes an organized program of learning (including a workshop or symposium) that contributes directly to the professional competency of an attorney.
- b. It pertains to common legal subjects or other subject matters that integrally relate to the practice of law.
- c. It is conducted by attorneys or individuals who have a special education, training, and experience by reason of which the attorneys or individuals should be considered experts concerning the subject matter of the program, and the activity preferably is accompanied by a paper, manual, or written outline that substantively pertains to the subject matter of the program.
- d. It is presented in the form of moderated programming, or in the form of unmoderated programming approved by the commission according to its guidelines.
- **42.3(2)** No activity will be accredited that involves solely self-study, including television viewing, video or sound recorded programs, or correspondence work, except as may be allowed pursuant to rule 42.5.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; March 21, 2014; December 13, 2017, effective January 1, 2018]

Rule 42.4 Accreditation of programs and activities.

42.4(1) Accreditation of activities. A program sponsor that desires accreditation of a program, course, or other legal education activity or an attorney who desires to establish accreditation of a program, course, or other legal education activity must apply for accreditation to the commission in advance of the commencement of the activity or after completion of the activity in the manner the

commission prescribes. The commission must approve or deny such application in writing or by electronic mail within 30 days of receipt of such application. The application must state the dates, subjects offered, total hours of instruction, names and qualifications of speakers, and other pertinent information.

- **42.4(2)** Fee for organization applications for accreditation. To support administration of this chapter, any organization or other activity sponsor applying for accreditation of an activity must pay to the commission a prescribed nonrefundable application fee for each activity. No application fee is required of an attorney who applies for accreditation solely as an attendee. The commission may waive the application fee for any of the following reasons:
 - a. For any activity offered at no charge to attendees for the educational portion of the activity.
- b. For any presentation of the identical program at additional places or dates during a calendar year, provided the original presentation of the program was approved.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; February 22, 2002; November 23, 2004, effective July 1, 2005; March 21, 2014; December 13, 2017, effective January 1, 2018]

Rule 42.5 Hardships or extenuating circumstances.

- **42.5(1)** The commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time will be granted unless written application therefor is made on forms prescribed by the commission. A \$100 fee will be assessed on all waiver or extension of time applications received after January 15 of the year following the year in which the alleged hardship occurred.
- **42.5(2)** Waivers of the minimum educational requirements may be granted by the commission for any period of time not to exceed one year. In the event that the hardship or extenuating circumstances upon which a waiver has been granted continue beyond the period of the waiver, the attorney must reapply for an extension of the waiver. The commission may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the commission.
- **42.5(3)** Extensions of time within which to fulfill the minimum educational requirements may, in individual cases involving hardship or extenuating circumstances, be granted by the commission for a period not to exceed six months immediately following expiration of the year in which the requirements were not met. Hours of minimum educational requirement completed within such an extension period must be applied first to the minimum educational requirement for the preceding year and will then be applied to the current or following year only to the extent that such hours are not required to fulfill the minimum educational requirement for the preceding year.

[Court Order November 25, 1975; August 12, 1980; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]

Rule 42.6 Exemptions for inactive practitioners. A member of the bar who is not engaged in the practice of law in the State of Iowa as defined in Iowa Court Rule 39.7 residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the commission. The application must contain a statement that the applicant will not engage in the practice of law in Iowa, as defined in Iowa Court Rule 39.7, without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption must be submitted upon the form prescribed by the commission. Applications for a certificate of exemption must be submitted concurrently under Iowa Court Rules 39.7 and 41.7 and this rule. [Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; August 19, 2016, effective January 1, 2018; December 13, 2017, effective January 1, 2018]

Rule 42.7 Reinstatement of inactive practitioners.

- **42.7(1)** Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption must, prior to engaging in the practice of law in the State of Iowa as defined in Iowa Court Rule 39.7, satisfy the following requirements for reinstatement:
- a. Submit written application for reinstatement to the commission upon forms prescribed by the commission together with a reinstatement fee of \$100 and all late filing penalties due at the time the exemption was granted.
 - b. Furnish in the application evidence of one of the following:

- (1) Having engaged in the full-time practice of law, as defined in Iowa Court Rule 39.7, in another state of the United States or the District of Columbia and completion of continuing legal education for each year of inactive status substantially equivalent in the opinion of the commission to that required under chapter 41 of the Iowa Court Rules.
- (2) Successful completion of an Iowa state bar examination conducted within one year immediately prior to the submission of such application for reinstatement.
- (3) Completion of a total number of hours of accredited continuing legal education computed by multiplying 15 by the number of years a certificate of exemption has been in effect for such applicant, but limited to a maximum requirement of 100 hours. The continuing legal education required for reinstatement must include hours devoted specifically to the area of legal ethics in accordance with the requirements in effect for the years the attorney was in exempt or inactive status. Alternatively, the legal ethics requirement may be satisfied by obtaining a scaled score of 80 or higher on the Multistate Professional Responsibility Examination within one year immediately prior to submission of the application for reinstatement.
- **42.7(2)** Notwithstanding that an applicant for reinstatement has not fully complied with the requirements for reinstatement set forth in rule 42.7(1)(b), the commission may conditionally reinstate such applicant on such terms and conditions as it may prescribe regarding the period of time in which the applicant must furnish evidence of compliance with the requirements of rule 42.7(1)(b). [Court Order November 25, 1975; July 28, 1977; January 8, 1988; December 15, 1994, effective January 3, 1995; April 10, 1997; November 9, 2001, effective February 15, 2002; August 10, 2009; December 10, 2012; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020]
- **Rule 42.8 Staff.** The executive director of the office of professional regulation may designate a director of boards and commissions of the office of professional regulation to serve as the principal executive officer of the commission. The commission may, subject to the approval of the court, employ such other employees as the commission deems necessary to carry out its duties under chapter 41 of the Iowa Court Rules, who must perform such duties as the commission may from time to time direct

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 5, 2007; November 20, 2015, effective January 1, 2016; September 14, 2021, effective October 1, 2021]

- **Rule 42.9 Divisions.** The commission may organize itself into divisions of not fewer than three members for the purpose of considering and deciding matters assigned to them. [Court Order November 25, 1975; November 9, 2001, effective February 15, 2002]
- Rule 42.10 Hearings. In the event of denial in whole or in part of any application, the applicant has the right, within 20 days after receipt of the notification of the denial, to request in writing a hearing before the commission. The decision of the commission after such hearing is final. Any hearing on a revocation of the accreditation of an accredited sponsor, the denial of a hardship application, or a recommendation for disciplinary action under Iowa Court Rule 41.5(4) must be before a quorum of the entire commission.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 42.11 Notice of failure to comply. In the event an attorney fails to comply with the provisions of Iowa Court Rule 41.4 or files a report showing on its face failure to complete the required number of accredited hours of continuing legal education, the commission must notify the attorney in writing of such apparent noncompliance and the attorney will have 15 days from the mailing of the notice to cure the failure to comply or make an appropriate application under rule 42.5. If the failure to comply is not cured or such application is not approved, the commission must report promptly to the supreme court the failure of the attorney to comply with chapter 41 of the Iowa Court Rules.

[Court Order November 25, 1975; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

CHAPTER 43 LAWYER TRUST ACCOUNT COMMISSION

Rule 43.1	Composition
Rule 43.2	Powers and duties
Rule 43.3	Officers
Rule 43.4	Director
Rule 43.5	Compensation and expenses
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Rule 43.7	Supplemental rules
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CHAPTER 43 LAWYER TRUST ACCOUNT COMMISSION

Rule 43.1 Composition.

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- **43.1(1)** *Members*. The Lawyer Trust Account Commission (commission) consists of seven members, four of whom must be members of the bar of Iowa having their principal offices in this state. Three members must be residents of this state who are not lawyers.
 - **43.1(2)** Appointment. The members are appointed by the supreme court of Iowa.
- **43.1(3)** *Terms*. The term of office for members is three years. Each member must continue to serve until a successor is appointed and qualified. No member may serve for longer than two successive terms and until a successor is appointed and qualified.
- **43.1(4)** *Vacancies*. Vacancies will be filled by appointment of a person to serve for the unexpired portion of the vacant term.

[Court Order December 28, 1984; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 43.2 Powers and duties.

- **43.2(1)** *General.* The commission has general supervisory authority over the administration of these rules.
- **43.2(2)** Receipt and investment of funds. The commission receives funds from lawyers' interest-bearing trust accounts and makes appropriate temporary investments of such funds pending disbursement of them. The commission may also accept funds from other sources. All funds received are held by the commission as an agency of the supreme court.
 - **43.2(3)** Disbursement of funds. The commission must disburse funds received as follows:
- a. Such sums as are necessary for the employment of staff and administration of activities authorized under these rules.
- b. The remaining funds for the tax-exempt public purposes, which the supreme court may prescribe from time to time consistent with Internal Revenue Code regulations and rulings.
- **43.2(4)** Records and reports. The commission must maintain adequate books and records reflecting all transactions and submit quarterly reports of its financial and other activities to the supreme court. At least once a year, and at such additional times as the supreme court may order, the commission must file with the supreme court a written report reviewing in detail the administration of the fund during the year together with an audit of the fund certified by an Iowa certified public accountant.

[Court Order December 28, 1984; October 23, 1985, effective November 1, 1985; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 43.3 Officers.

- **43.3(1)** *Chairperson.* The supreme court will designate from among the members of the commission a chairperson who will serve at the pleasure of the court.
- **43.3(2)** Other officers. The commission may elect other officers as it deems appropriate and may specify their duties.

[Court Order December 28, 1994; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 43.4 Director.

- **43.4(1)** Appointment. The executive director of the office of professional regulation serves as the principal executive officer of the commission. The executive director may designate an assistant director for boards and commissions to assist with the duties described in this chapter.
- **43.4(2)** *Duties.* The executive director is responsible and accountable to the commission for the proper administration of these rules.
- **43.4(3)** Services. The executive director may employ persons or contract for services as the commission may approve.
- **43.4(4)** *Records*. All information obtained by the commission in the administration of these rules is public information, except that individual remittance reports with required attachments are confidential unless directed by the court or chair to be made public. Individual remittance reports and

attachments must be available for examination and reproduction by an officer or agent of the Client Security Commission, for purposes of carrying out duties under chapter 39 of the Iowa Court Rules. [Court Order December 28, 1984; October 23, 1985, effective November 1, 1985; July 26, 1995, effective September 5, 1995; November 9, 2001, effective February 15, 2002; July 1, 2005; December 5, 2007; November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 43.5 Compensation and expenses. Members of the commission serve without compensation but may be paid their reasonable and necessary expenses incurred in the performance of their duties. All expenses of the operation of the commission must be paid from funds the commission receives from lawyers' interest-bearing trust accounts or income earned thereon.

[Court Order December 28, 1984; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 43.6 Disposition of funds upon dissolution. If the Lawyer Trust Account Commission is discontinued, any funds then on hand must be transferred to its successor agency or organization qualifying under the Internal Revenue Code, if any, for distribution for the purposes specified under rule 43.2 or, if there is no successor, to the general fund of the State of Iowa.

[Court Order December 28, 1984: November 9, 2001, effective February 15, 2002: December 13, 2017.

[Court Order December 28, 1984; November 9, 2001, effective February 15, 2002; December 13, 2017, effective January 1, 2018]

Rule 43.7 Supplemental rules. Subject to approval of the supreme court, the commission may make and adopt rules not inconsistent with these rules to govern the conduct of its business and performance of its duties.

[Court Order December 28, 1984; November 9, 2001, effective February 15, 2002]

Rule 43.8 Applicability of Iowa Tort Claims Act. Claims against members of the commission and the executive director, directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

[Court Order April 25, 1985; November 9, 2001, effective February 15, 2002; June 5, 2008, effective July 1, 2008; September 14, 2021, effective October 1, 2021]

CHAPTER 46

RULES OF THE BOARD OF EXAMINERS OF SHORTHAND REPORTERS

Rule 46.1	Authorization and scope
Rule 46.2	Definitions
Rule 46.3	Organization; meetings; information
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CHAPTER 46 RULES OF THE BOARD OF EXAMINERS OF SHORTHAND REPORTERS

Rule 46.1 Authorization and scope. The rules in this chapter are adopted in conjunction with Iowa Code sections 602.3101 through 602.3302. They apply to all proceedings, functions, and responsibilities of shorthand reporters and the board of examiners. [Court Order June 5, 2008, effective July 1, 2008]

Rule 46.2 Definitions. In this chapter:

- (1) "Certified shorthand reporter" is an individual who has demonstrated by examination administered by the board of examiners that such individual has achieved proficiency in shorthand equivalent in the discretion of the board to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter, namely, the demonstrated ability to write dictated tests at 180 words per minute (question and answer technical dictation), 200 words per minute (multivoice dictation for transcription or readback), and 225 words per minute (question and answer dictation), or such equivalents thereof as the board may select, each at 95 percent accuracy or better, and demonstrated written knowledge of the reporter's duties, Iowa legal procedure, and correct English usage at 70 percent accuracy or better. Individuals who hold the designation of Registered Professional Reporter from the National Court Reporters Association by passing the association's examination on or after May 1, 1973, and are in good standing with such association, may, upon application to the board of examiners, become certified shorthand reporters upon successfully passing a written examination concerning a reporter's duties, Iowa legal procedure, and correct English usage at 70 percent accuracy or better.
- (2) "Shorthand" is a method of writing rapidly with stenographic machine by substituting characters, abbreviations, or symbols for letters, words, or phrases.
- (3) "Shorthand reporting" is the professional skill, the practice of which by official shorthand reporters and freelance shorthand reporters serves the judicial branch of state government in courts of record, references by such courts or the law, depositions taken by shorthand reporters, or proceedings of like character, with the end in view of ensuring the accuracy and integrity of the record upon which courts rely for evidence, trial, and appellate review.

[Court Order June 5, 2008, effective July 1, 2008; December 18, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

Rule 46.3 Organization; meetings; information.

- **46.3(1)** The officers of the Board of Examiners of Shorthand Reporters (board) are a chairperson selected by the supreme court of Iowa and a secretary elected at the September meeting, each to serve for a term of one year, or until a successor is elected. Each must perform the duties incumbent upon the office.
- **46.3(2)** The board must hold regular meetings for examination of applicants and the transaction of other business at least twice per year. Special meetings may be held upon the call of any two members of the board. A majority of three or more members of the board constitutes a quorum. Business must not be conducted unless a quorum is present. All actions of the board require a simple majority vote of those present.
- **46.3(3)** The board must at least 60 days prior to the start of each fiscal year or on a date otherwise requested by the supreme court submit to the court for consideration and approval a budget covering the board's operations for the upcoming fiscal year. Approval of the budget by the court will authorize payment as provided in the budget. A separate bank account designated as the certified shorthand reporter operating account must be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement must be deposited in the certified reporter operating account for payment of the board's authorized expenditures.
- 46.3(4) The executive director of the office of professional regulation will serve as the administrator for the board. Information may be obtained from the executive director at the Office

of Professional Regulation, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319, by mail or in person during office hours.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

- Rule 46.4 Applications. Candidates for examination must make written application on the form approved by the board and provided by the board's office. An application must be on file with the administrator at the board's office at least 30 days before the date of the examination, unless the board for good cause shown grants an applicant additional time to file or otherwise waives the 30-day filing deadline. Good cause for this purpose may include illness, military service, unavoidable casualty or misfortune, or other grounds beyond the control of the applicant. A new application is required for each examination. An applicant to become a certified shorthand reporter must not be examined until the applicant has satisfied the board that the applicant's educational and special training includes at least one of the following:
- **46.4(1)** The applicant has attained proficiency of 200 words per minute or more in a shorthand reporting course.
- **46.4(2)** The applicant has had at least two years of experience as a shorthand reporter in making verbatim records of judicial or related proceedings.
- **46.4(3)** The applicant has graduated from a shorthand reporting school approved by the National Court Reporters Association.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.5 Examination.

- **46.5(1)** Applicants are required to write shorthand from dictation of regular court proceedings, or such other matter as may be selected by the board of examiners, for such periods as required at varying speeds within the standard.
- **46.5(2)** Applicants will be examined with respect to their knowledge of the statutory duties of a court reporter, general Iowa court procedure, and correct English usage at a 70 percent or better accuracy rate.
- 46.5(3) Applicants are required to transcribe such part of the dictation as the board of examiners may indicate.
- **46.5(4)** Applicants are required to read aloud such part of the dictated matter as the board of examiners may indicate.
- **46.5(5)** Applicants are required to furnish their own equipment and supplies for taking shorthand. Applicants must make their own transcript on a provided computer or typewriter unless the applicant is otherwise notified.
- **46.5(6)** Upon completion of the examination, all shorthand notes, transcripts, and other papers used in connection with an examination must be returned to the board.
- **46.5(7)** Testing rules and guidelines of the National Court Reporters Association and the Board of the Academy of Professional Reporters for Registered Professional Reporters must be used as a guide to procedure.

[Court Order June 5, 2008, effective July 1, 2008; December 18, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

Rule 46.6 Certification. Each person who has achieved the designation of certified shorthand reporter will be issued a certificate by the board. The certificate may be signed by the chairperson and secretary or by all of the board members.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.7 Fees.

- **46.7(1)** The fee for each examination is \$200.
- **46.7(2)** The fee for annual renewal is \$85.
- **46.7(3)** The fee for late filing of an annual report is \$100.
- **46.7(4)** The fee for reinstatement from a suspension is \$100.
- **46.7(5)** The fee for reinstatement for one granted a certificate of exemption is \$50.
- **46.7(6)** The fee for an extension for obtaining continuing education credit is \$50. [Court Order June 5, 2008, effective July 1, 2008; July 17, 2013, effective September 1, 2013]

Rule 46.8 Continuing education requirement.

- **46.8(1)** Units of continuing education credits as approved by the board must be completed by each reporter in active practice in Iowa. Failure to comply with the continuing education requirements will be grounds for disciplinary action under rule 46.11. In order to comply, a reporter must meet the requirements of rule 46.8(1)(a) or 46.8(1)(b):
 - a. Continuing education requirements.
- (1) A reporter must obtain at least three continuing education units (CEUs) within a three-year period by attending or participating in seminars, workshops, or courses, integrally relating to the field of shorthand reporting, and which contribute directly to the professional competency of the shorthand reporter. One hour of continuing education credit equals .1 CEU.
- (2) Continuing education activities must be conducted by individuals who have special education, training, and experience, and the individuals should be considered experts concerning the subject matter of the program. Attendance at any approved national, regional, or state seminar will be acceptable.
- (3) CEUs earned in any one reporting period may be carried over for credit in one or more succeeding reporting periods, constituting the three-year period previously provided, but cannot be carried over to any successive three-year period.
- (4) The annual reporting cycle will run from October 1 through September 30. Continuing education requirements and the three-year reporting cycle for newly certified shorthand reporters will commence October 1 of the year following the year of their certification.
- b. Alternative requirements. In lieu of the requirements set forth in rule 46.8(1)(a), the board will accept satisfactory evidence of compliance with the current continuing education requirements of the National Court Reporters Association for retention on its Registry of Professional Reporters.
- **46.8(2)** The board may, in individual cases involving disability, hardship, or extenuating circumstances, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time will be granted unless written application is made and signed by the reporter. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.
- **46.8(3)** Reporters who are not actively engaged in practice may obtain from the board a certificate of exemption from continuing education requirements. Application for such exemption must contain a statement that the applicant will not engage in the practice of shorthand reporting in Iowa without first complying with the regulations governing reinstatement after exemption.
- **46.8(4)** Inactive practitioners who have been granted a certificate of exemption from these regulations or who have been suspended must, prior to engaging in the practice of shorthand reporting in Iowa, satisfy the following requirements for reinstatement:
- a. Submit written application for reinstatement to the board upon forms prescribed by the board together with a reinstatement fee of \$50.
 - b. Furnish in the application evidence of one of the following:
- (1) Active shorthand reporting in another state of the United States or the District of Columbia and completion of continuing education requirements that are the substantial equivalent to the requirements set forth in these rules for court reporters in Iowa as determined by the board.
- (2) Completion of CEUs sufficient to satisfy education requirements for the period of inactivity if seeking reinstatement within three years of being granted a certificate of exemption.
- (3) Successful passing of either the State of Iowa's certificate examination or the National Court Reporters Association's examination within one year immediately prior to the submission of such application for reinstatement.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.9 Approval of activity. A reporter seeking credit for attendance and participation in an educational activity other than those sponsored or approved by the National or Iowa Court Reporters Associations must submit to the board, within 30 days after completion of such activity, a request for credit, including a brief résumé of the activity, its dates, subjects, instructors and their qualifications, and the number of credit hours requested. Within 60 days after receipt of such application, the board must advise the reporter in writing by electronic mail whether the activity is approved and the number of hours are allowed. A reporter not complying with the requirements of this rule may be denied credit for such activity.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.10 Continuing education reports.

46.10(1) On or before December 1 of each year, each reporter must file with the board, on forms provided by the board, a signed report concerning completion of continuing education for the prior reporting period. The report, along with the annual renewal fee, must be submitted and filed electronically using the reporter's account with the office of professional regulation.

46.10(2) All active reporters who fail to file the annual report on or before December 1 of each year must pay a penalty of \$100.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.11 Penalty for failure to satisfy continuing education requirements. The board may revoke or suspend the license of any reporter who fails to comply with rule 46.10 or who files a report showing a failure to complete the required number of education credits, provided that at least 30 days prior to the suspension or revocation, notice of the delinquency has been served upon the reporter in the manner provided for the service of original notices in Iowa Rule of Civil Procedure 1.305 or has been forwarded to the reporter by restricted certified mail, return receipt requested, addressed to the reporter's last-known address. The reporter must be given the opportunity during the 30 days to file in the board's office an affidavit establishing that the noncompliance was not willful and tender the documents and sums and penalties which, if accepted, would cure the delinquency. Alternatively, the reporter may file in the board's office a request, in duplicate, for hearing to show cause why the reporter's certificate should not be suspended or revoked. The board must grant a hearing if requested. If the board orders a suspension or revocation it must notify the reporter by either of the methods provided above. The suspension or revocation must continue until the board has approved the reporter's written application for reinstatement.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.12 Disciplinary action. The board may, upon its own initiative, at the request of the Iowa Supreme Court, or pursuant to complaint by a third party, begin disciplinary procedures against any reporter for violations of the board rules or the Code of Iowa.

46.12(1) Charges against a reporter brought by a third party must be in writing, signed by the complainant, filed with the board, and contain substantiating evidence to support the complainant's allegations. The complaint must include complainant's address and telephone number, be dated, identify the reporter, and give the address and any other information about the reporter that the complainant may have concerning the matter.

46.12(2) Such complaint, which will be held in confidence as required by law, must be reviewed by the board. If the board concurs in the seriousness of the allegations made by the complainant, the board must advise the reporter in writing of the charges involved. The reporter has 30 days from the receipt of the board's notice to answer the charges in writing. The reporter may request a personal appearance before the board. The board must then review again the charges made and determine whether the complaint can be disposed of informally or if contested case proceedings should be commenced.

[Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.13 Causes for disciplinary action. The board may revoke or suspend a certificate, or impose any of the disciplinary sanctions included in this chapter for any of the following reasons:

46.13(1) All grounds listed in Iowa Code section 602.3203.

46.13(2) Failure to file an annual report showing satisfaction of the current requirement of continuing education or submission of a false report of continuing education.

46.13(3) Conviction of a misdemeanor related to the profession or occupation of the reporter.

46.13(4) Unless otherwise required by law, a violation of Iowa Rule of Civil Procedure 1.713(1) or 1.713(2) in any state, federal, administrative, or other proceeding.

46.13(5) The board's receipt of a certificate of noncompliance from the Child Support Recovery Unit pursuant to the procedures set forth in Iowa Code chapter 252J.

46.13(6) The board's receipt of a certificate of noncompliance from the Iowa College Student Aid Commission pursuant to the procedures set forth in Iowa Code chapter 261.

46.13(7) The board's receipt of a certificate of noncompliance from the Central Collection Unit of the Iowa Department of Revenue pursuant to the procedures set forth in Iowa Code chapter 272D. [Court Order June 5, 2008, effective July 1, 2008; December 12, 2011; December 13, 2017, effective January 1, 2018]

Rule 46.14 Contested case proceedings.

- **46.14(1)** Contested case proceedings that involve possible disciplinary sanctions must be set for hearing on not less than 10 days' notice to all parties. Notice of hearing must be in writing and must be served either by personal service or certified mail, return receipt requested.
 - **46.14(2)** The notice must include all of the following information:
 - a. A statement of the time, place, and nature of the hearing.
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - c. A reference to the particular sections of the statutes and rules involved.
- d. A concise statement of the matters asserted, or if the board is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.
- **46.14(3)** If a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjustment is granted, proceed with the hearing and make a decision in the absence of the party.
- **46.14(4)** Opportunity should be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.
- **46.14(5)** Unless precluded by statute, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or by another method agreed upon by the parties in writing.
- **46.14(6)** After the conclusion of a hearing, the board must take any of the actions set forth in rule 46.15. The board's actions must be set forth in writing, and a copy of the conclusions and decisions must be served upon all parties and the Iowa Supreme Court. The board may permit a reasonable time for the parties to file posthearing briefs and arguments. The report of the board must be made within 60 days after the date set for the filing of the last responsive brief and argument. If the board cannot reasonably make its determination or file its report within such time limit, it must report that fact and the reasons therefor to the parties and to the clerk of the supreme court. Any determination or report of the board need only be concurred in by a majority of the board members sitting, and any member has the right to file a dissent from the majority determination or report.
- **46.14(7)** Procedures for the handling of all contested case proceedings are governed, to the extent not specifically set forth in this chapter, by the Iowa Administrative Procedure Act. [Court Order June 5, 2008, effective July 1, 2008; December 13, 2017, effective January 1, 2018]

Rule 46.15 Disciplinary sanctions. The board may, based upon the evidence presented, take one or more of the following actions:

- 46.15(1) Dismiss the charges.
- **46.15(2)** Informally stipulate and settle any matter relating to the reporter's discipline.
- **46.15(3)** Require additional professional education.
- **46.15(4)** Issue a citation and warning regarding the reporter's behavior.
- **46.15(5)** Reprimand.
- **46.15(6)** Impose a period of probation.
- **46.15(7)** Suspend the certificate.
- **46.15(8)** Revoke the certificate.

[Court Order June 5, 2008, effective July 1, 2008]

Rule 46.16 Military service and veteran reciprocity.

46.16(1) *Definitions*. In this rule:

- a. "Military service" means honorably serving: in federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. section 10101.
- b. "Military service applicant" is an individual requesting credit toward certification for military education, training, or service obtained or completed in military service.
 - c. "Veteran" is an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).
- **46.16(2)** *Military education, training, and service credit.* A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for certification by submitting a military service application to the board.
- a. The application may be submitted with an application for certification or examination or prior to an applicant's applying for certification or to take an examination. No fee is required for submission of an application for military service credit.

- b. The applicant must identify the experience or educational certification requirement to which the credit would be applied if granted. Credit may not be applied to an examination requirement.
- c. The applicant must provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (DD Form 2586).
- d. Upon receipt of a completed military service application, the board will promptly determine whether the verified military education, training, or service satisfies all or any part of the identified experience or educational qualifications for certification.
- e. The board will grant the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for certification.
- f. The board will inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for certification, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.
- g. A military service applicant aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision. No fees or costs may be assessed against the military service applicant in connection with a contested case conducted pursuant to this rule 46.16(2).
- h. The board will grant or deny the military service application prior to ruling on the application for certification. The applicant is not required to submit any fees in connection with the certification application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the certification application or request that the application be placed in pending status for up to one year or as mutually agreed. Withdrawal of a certification application does not preclude subsequent applications supported by additional documentation or information.

46.16(3) *Veteran reciprocity.*

- a. A veteran with an unrestricted professional certificate as a shorthand reporter in another jurisdiction may apply for certification in Iowa through reciprocity. A veteran must pass any examinations required for certification to be eligible for certification through reciprocity and will be given credit for examinations previously passed when consistent with board rules on examination requirements. A veteran's fully completed application for certification submitted under rule 46.16(3) will be expedited and given priority.
- b. A veteran's application for certification must contain all of the information required of all applicants for certification who hold unrestricted certificates in other jurisdictions and who are applying for certification by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant must use the same forms as any other applicant for certification by reciprocity and must additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).
- c. Upon receipt of a fully completed certification application, the board will promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is certified are substantially equivalent to the certification requirements in Iowa. The board will make this determination based on information the applicant supplies and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examination required for certification.
- d. The board will promptly grant a certificate to the veteran if the applicant is certified in the same or similar profession in another jurisdiction whose certification requirements are substantially equivalent to those required in Iowa and the applicant has passed the written examination administered by the board pursuant to rule 46.5(2), unless the applicant is ineligible for certification based on other grounds, such as the applicant's disciplinary or criminal background.
- e. If the board determines that the certification requirements in the jurisdiction in which the veteran is certified are not substantially equivalent to those required in Iowa, the board will promptly inform the veteran of the additional experience, education, or examinations required for certification in Iowa.

- f. Unless the applicant is ineligible for certification based on other grounds, such as disciplinary or criminal background, the following apply:
- (1) If a veteran has not passed the required examinations for certification, the applicant may not be issued a provisional certificate but may request that the certification application be placed in pending status for up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.
- (2) If additional experience or education is required for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional certificate for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board may issue a provisional certificate for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare, or safety of the public, unless the board determines that the deficiency is of a character that the public health, welfare, or safety will be adversely affected if a provisional certificate is granted.
- (3) If a request for a provisional certificate is denied, the board will issue an order fully explaining the decision and inform the applicant of the steps the applicant may take to receive a provisional certificate.
- (4) If a provisional certificate is issued, the application for full certification will be placed in pending status until the applicant successfully completes the necessary experience or education or the provisional certificate expires, whichever occurs first. The board may extend a provisional certificate on a case-by-case basis for good cause.
- g. A veteran who is aggrieved by the board's decision to deny an application for a reciprocal certificate or a provisional certificate, or who is aggrieved by the terms under which a provisional certificate will be granted, may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision. No fees or costs will be assessed against the veteran in connection with a contested case conducted pursuant to this rule 46.16(3).
- **46.16(4)** Substantially equivalent certification requirements. The certification requirements of another jurisdiction are substantially equivalent to those of Iowa, if in that jurisdiction an individual must demonstrate, by examination administered by the licensing authority of the jurisdiction, proficiency in shorthand equivalent to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter.

[Court Order December 18, 2014; October 15, 2015; December 13, 2017, effective January 1, 2018]

Rule 46.17 Certification by reciprocity.

- **46.17(1)** An applicant with an unrestricted professional certificate as a stenographic shorthand reporter in another jurisdiction may apply for certification in Iowa through reciprocity. The applicant will be given credit for examinations previously passed when consistent with board rules on examination requirements.
- **46.17(2)** An applicant's application for certification must contain completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check.
- **46.17(3)** Upon receipt of a fully completed certification application, the board will promptly determine if the professional or occupational licensing requirements of the jurisdiction where the applicant is certified are substantially equivalent to the certification requirements in Iowa. The board will make this determination based on information the applicant supplies and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: method of practice, scope of practice, education and coursework, degree requirements, postgraduate experience, and examination required for certification
- **46.17(4)** The board will promptly grant a certificate to the applicant if the applicant is certified in the same or similar profession in another jurisdiction whose certification requirements are substantially equivalent to those required in Iowa and the applicant has passed the written examination administered by the board pursuant to rule 46.5(2), unless the applicant is ineligible for certification based on other grounds, such as the applicant's disciplinary or criminal background.
- 46.17(5) If the board determines that the certification requirements in the jurisdiction in which the applicant is certified are not substantially equivalent to those required in Iowa, the board will promptly inform the applicant of the additional experience, education, or examinations required for certification in Iowa.

- **46.17(6)** An applicant who is aggrieved by the board's decision to deny an application for a reciprocal certificate may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case must be made within 30 days of issuance of the board's decision.
- **46.17(7)** The certification requirements of another jurisdiction are substantially equivalent to those of Iowa, if in that jurisdiction an individual must demonstrate by examination, administered by the licensing authority of the jurisdiction, proficiency in stenographic shorthand equivalent to the standard of the National Court Reporters Association for the earned designation of Registered Professional Reporter.

[Court Order October 15, 2015; December 13, 2017, effective January 1, 2018]

CHAPTER 47 COURT INTERPRETER AND TRANSLATOR RULES

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CHAPTER 47 COURT INTERPRETER AND TRANSLATOR RULES

[Prior to April 1, 2008, see Chapter 14]

Rule 47.1 Definitions. As used in this chapter:

- **47.1(1)** Certified deaf interpreter (CDI). A "CDI" is an interpreter who is deaf, has obtained a Certified Deaf Interpreter certificate or a Certified Legal Interpreter Provisional—Relay (CLIP-R) certificate from the Registry for Interpreters for the Deaf (RID), and who provides interpreting services to deaf persons with linguistic differences that prevent them from fully utilizing a traditional American Sign Language (ASL) interpreter.
- **47.1(2)** Court interpreter or interpreter. A "court interpreter" or "interpreter" means an oral or sign language interpreter who transfers the meaning of spoken or written words or signs into the equivalent meaning in another oral or sign language during a legal proceeding
- **47.1(3)** *Court-ordered program.* A "court-ordered program" is a predisposition program in which a court has ordered a party to participate.
- 47.1(4) Court personnel. "Court personnel" includes clerk of court staff and district court administration staff.
- **47.1(5)** *Court proceeding.* A "court proceeding" is any action before a state court judicial officer that has direct legal implications for any person.
- **47.1(6)** Legal proceeding. A "legal proceeding" includes any court proceeding, any deposition conducted in preparation for a court proceeding, any case settlement negotiation in an existing court case, and any attorney-client communication necessary for preparation for a court proceeding in an existing court case.
- **47.1(7)** Limited English proficient (LEP) participant or person. An "LEP participant" or "LEP person" has a limited ability to speak, read, write, or understand English because the person's primary language is not English or because the person is deaf, deaf-blind, or hard-of-hearing.
- **47.1(8)** Participant in a legal proceeding. A "participant in a legal proceeding" is any of the following: a party or witness in a court or legal proceeding; a party participating in a court-ordered program; a parent, guardian, or custodian of a minor party involved in a juvenile delinquency proceeding; a deaf, deaf-blind, or hard-of-hearing attorney; or a deaf, deaf-blind, or hard-of-hearing person summoned for jury duty or grand jury duty.
- **47.1(9)** Reasonably available interpreter. Subject to the exceptions identified in rule 47.3(6), a "reasonably available interpreter" is an interpreter available and willing to provide in-person services at the time and location of the legal proceeding and who resides within 150 miles of the location where the legal proceeding will occur. A reasonable distance could be more than 150 miles when an interpreter of an uncommon language is needed or the case could result in serious consequences for one of the parties, including but not limited to termination of parental rights, a sentence to serve time in a state correctional facility, or substantial financial damages.
- **47.1(10)** *Translator.* A "translator" accurately transfers the meaning of written, oral, or signed words and phrases in one language into the equivalent meaning in written words and phrases of a second language, or accurately produces a written transcript in English of electronically recorded testimony or other court communication in which one or more of the participants has limited English proficiency.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; September 14, 2021, effective October 1, 2021]

Rule 47.2 Minimum qualifications of a court interpreter.

- **47.2(1)** Qualifications.
- a. Minimum age. A court interpreter must be at least 21 years old.
- b. Education. A court interpreter must have completed at least the equivalent of two years or 48 credit hours of college courses or must have completed the requirements in rule 47.4 or 47.5 to qualify for the Iowa roster of court interpreters.
 - c. Approval of state court administration.
- (1) Court interpreter application form. A court interpreter must complete an application form, developed by state court administration, on which the interpreter provides information about the interpreter's education, experience, prior misconduct, and references to assist the court in determining the interpreter's qualifications for court interpreting.

- (2) Criminal records search. A criminal records search will be completed by state court administration or a designee of state court administration at the time the application to be a court interpreter is filed with state court administration. The criminal record search may be waived for an interpreter who has had a criminal records search completed by state court administration or a designee of state court administration within six months of the filing date of the application.
- (3) No prior disqualifying misconduct. State court administration will review the applicant's application and criminal background check for possible disqualifying misconduct as identified in rule 47.2(1)(c)(3). When reviewing possible disqualifying misconduct, state court administration will weigh any mitigating or aggravating factors identified in rule 47.10(6) and the applicant's candor in the application process. State court administration may determine whether the misconduct disqualifies the applicant from being a court interpreter. Possible disqualifying misconduct includes:
- 1. A felony or any lesser crime of dishonesty or moral turpitude for which the applicant was convicted in any jurisdiction. An offense is a felony if it was classified as a felony in the jurisdiction where the conviction was entered at the time of the conviction.
- 2. Ethical misconduct that resulted in the bar or suspension of the interpreter from interpreting in any jurisdiction.
- d. Oath or affirmation. At the start of a court proceeding or a deposition in which an interpreter is present to facilitate communication with an LEP participant, the judicial officer presiding at the court proceeding or an attorney involved in taking the deposition must ask the interpreter on the record to swear or affirm that the interpreter has the knowledge and skills to interpret completely and accurately in a legal proceeding, understands and will abide by the Code of Professional Conduct for Court Interpreters and Translators in Chapter 48 of the Iowa Court Rules, and will interpret in court to the best of the interpreter's ability.
- e. Sign language interpreter qualifications. In addition to meeting the minimum qualifications in rules 47.2(1)(a) through (d), a sign language interpreter must be licensed by the Iowa Board of Sign Language Interpreters and Transliterators pursuant to Iowa Code chapter 154E, except as allowed under Iowa Code section 154E.4, and must meet the qualifications to be at least a Class B interpreter in rule 47.5(2).
 - **47.2(2)** Waiver of minimum qualifications for oral language court interpreters.
- a. Waiver only in extraordinary circumstances. A court may waive minimum qualifications for an oral language court interpreter only in extraordinary circumstances.
- (1) For court proceedings expected to last approximately 30 minutes or less, extraordinary circumstances exist when there is no reasonably available interpreter to provide in-person services and when there is no qualified interpreter available through a remote audio or video interpreter service consistent with rule 47.3(7).
- (2) For court proceedings expected to last more than approximately 30 minutes, extraordinary circumstances exist when there is no reasonably available interpreter to provide in-person services. In this circumstance, the court may waive the minimum requirements in rules 47.2(1)(a) through (c) subject to the following limitations:
- 1. If waiving the minimum age requirement in rule 47.2(1)(a), the court may approve an interpreter who is not less than 18 years old.
- 2. If waiving the minimum education requirement of rule 47.2(1)(b), the court may approve an interpreter who has at least a high school diploma or its equivalent.
- b. Before waiving minimum qualifications. Before waiving minimum qualifications, the court should reschedule a court proceeding if it is likely that the additional time will allow court personnel to obtain the services of an interpreter who meets at least the minimum qualifications and the delay will not result in a failure to meet a statutory or constitutional deadline for conducting the court proceeding.
- c. Waiver of interpreter qualifications on the record. Whenever the court waives one or more of the qualifications under rule 47.2(1), the court must explain the reasons for the waiver on the record. [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 47.3 Scheduling and appointing a court interpreter.

47.3(1) Persons who qualify for appointment of a court interpreter. When the court or court personnel have a reasonable basis to believe a person has limited English proficiency, unless the

court determines that another reasonable accommodation is appropriate, the person qualifies for appointment of a court interpreter if the LEP person is a participant in a legal proceeding.

- **47.3(2)** Application for appointment of a court interpreter.
- a. Cases in district court. An attorney must file an application for appointment of a court interpreter with the clerk of court as soon as the attorney learns that the attorney's client or a witness for a client needs an interpreter for a district court proceeding. A self-represented party should file an application for appointment of a court interpreter with the clerk of court as soon as possible after the party learns that the party or a witness for the party needs an interpreter for a court proceeding. Court personnel should obtain the assistance of an interpreter by telephone or in person while helping an unrepresented LEP party complete the form.
- b. Cases in the appellate courts. When an attorney represents an LEP party in a case on appeal, the attorney must file any application for appointment of a court interpreter in the district court where the case originated.
- **47.3(3)** Responsibility for selection and appointment of a court interpreter. When a court or court personnel learn that an interpreter is needed for an LEP participant in a court proceeding, court personnel will contact and select the most qualified interpreter who is reasonably available using the priorities established in rules 47.3(4) through (7). This responsibility cannot be delegated to an attorney or party involved in the case.
- 47.3(4) Priorities in the selection of an oral language interpreter. Subject to exceptions identified in rule 47.3(6), the court or court personnel must select the highest classified interpreter who is reasonably available for the court proceeding, giving preference to interpreters who are on Iowa's roster of court interpreters and using the following classification order:
 - a. Class A certified interpreter, defined in rules 47.4(1) and 47.4(5)(a).
 - b. Class B noncertified interpreter, defined in rule 47.4(2).
 - c. Class C noncertified interpreter, defined in rules 47.4(3) and 47.4(5)(b).
- d. Oral language interpreter on the list of approved interpreters in another jurisdiction. When there is no interpreter on Iowa's roster of court interpreters who is reasonably available, court personnel must seek an interpreter who is on an official list of certified or qualified interpreters approved by another state court system before selecting an unclassified interpreter as defined in rule 47.4(4).
- e. Unclassified noncertified interpreter, defined in rule 47.4(4). An unclassified interpreter will be selected only when there is no reasonably available interpreter who meets the minimum qualifications of rule 47.2(1).
- **47.3(5)** Priorities in the selection of a sign language interpreter. Subject to exceptions identified in rule 47.3(6), the court or court personnel will select the highest classified interpreter who is reasonably available for a court proceeding using the following classification order, and within each classification, will give preference to interpreters who are on Iowa's roster of court interpreters:
 - a. Class A certified interpreter, as defined in rule 47.5(1).
 - b. Class B noncertified interpreter, as defined in rule 47.5(2).
 - **47.3(6)** *Exceptions to the priorities for selecting a court interpreter.*
- a. Court proceedings within a magistrate's jurisdiction. For any court proceeding within a magistrate's jurisdiction, except a court proceeding involving a simple misdemeanor domestic assault charge, the court may appoint a reasonably available Class B or Class C noncertified interpreter on Iowa's roster of court interpreters before seeking the services of a Class A certified interpreter.
- b. Interpreter required on short notice. If a court receives notice for the need of an interpreter on the day the court proceeding is scheduled to occur or after 4 p.m. the previous workday, and the court determines that rescheduling the court proceeding would not be appropriate under the circumstances, the court may appoint the highest classified interpreter who is available to interpret at the required time and location. A Spanish interpreter must be at least a Class C interpreter, and an American Sign Language interpreter must be at least a Class B interpreter.
 - c. No reasonably available certified court interpreter resides within 150 miles of the courthouse.
- (1) If court personnel are unable to locate a reasonably available certified court interpreter for a legal proceeding in an indictable criminal case or termination of parental rights case within 150 miles of the courthouse, court personnel will conduct a regional or national search.
- (2) If court personnel are unable to locate a reasonably available certified court interpreter for cases other than indictable criminal or termination of parental rights within 150 miles of the courthouse, court personnel may conduct a regional or national search.

- (3) If court personnel are unable to locate an available certified court interpreter after a regional or national search, court personnel will attempt to locate a noncertified interpreter who is on the Iowa roster of court interpreters or who is on a list of qualified noncertified interpreters maintained by another state court system.
- (4) If court personnel are unable to locate an available certified or a qualified noncertified interpreter under rules 47.3(6)(c)(1) through (3), court personnel may appoint an interpreter who is not on a list of qualified interpreters maintained by any state court system.
- (5) Court personnel may request assistance from state court administration in conducting a regional or national search for a court interpreter.
- d. Civil pretrial proceedings. For any proceeding other than a trial, the court may appoint a reasonably available Class B noncertified interpreter.
 - **47.3(7)** *Interpreter services through remote audio or video communications technology.*
- a. For a court proceeding expected to last approximately two hours or less, a court may appoint an appropriate interpreter available through a remote audio or video interpreter service.
- b. A court may appoint a remote audio or video interpreter only from a service state court administration has approved.
- c. A remote video sign language interpreter must be a Class A certified interpreter or Class B noncertified interpreter as defined in rule 47.4(1) or 47.4(2).
- d. For a court proceeding expected to last approximately two hours or less, a court may appoint a remote Class A certified interpreter or Class B noncertified interpreter instead of a less qualified interpreter available to interpret in person.
- e. The court will enter into the record of the court proceeding the interpreter's name, the interpreter services company that provided the interpreter (if applicable), and the interpreter's formal education, interpreter testing and training, experience as an interpreter, and experience as a court interpreter.
- f. A court may approve a remote interpreter only if the court concludes that the interpreter has the qualifications to be a competent court interpreter.
- g. Before or at a court proceeding for which a remote interpreter is appointed to facilitate communication with an LEP participant, the court will enter an order appointing the remote interpreter consistent with rule 47.3(8). For an initial appearance in a criminal case, the court may orally appoint the interpreter prior to the proceeding and enter an order appointing the interpreter after the proceeding has been concluded, if necessary.
- h. If the court declines to appoint an interpreter who appears at a court proceeding or discontinues use of an interpreter after a court proceeding has begun and the hearing will be approximately two hours or less, the court may obtain an interpreter through a remote interpreter service approved by state court administration; otherwise the court may postpone the court proceeding to allow time for court personnel to procure the services of a qualified interpreter consistent with the criteria in rules 47.3(4) through (6).
 - **47.3(8)** *Order appointing a court interpreter.*
- a. When a court interpreter is identified consistent with rule 47.3, the court will enter an order appointing the interpreter prior to the legal proceeding, unless the court has previously entered an order appointing the interpreter for all subsequent proceedings in the case.
- b. When the court appoints an interpreter for an LEP defendant at an initial appearance, whether the interpreter appears in person or through a remote interpreter service, the order appointing the interpreter must also include the appointment of a qualified interpreter for all subsequent proceedings in the case consistent with rules 47.3(4) through (7), or the order must direct the district court administrator to schedule a qualified interpreter for all subsequent proceedings in the case consistent with rules 47.3(4) through (7).
- c. An order appointing an interpreter must specify whether the interpreter is appointed for a specific court proceeding or all court proceedings in the case and whether an interpreter also is appointed to assist with attorney-client communications, settlement communications, depositions, witness interviews, and other reasonable preparations prior to the scheduled court proceeding or proceedings for which the interpreter has been appointed.
- d. An order appointing an interpreter must identify the interpreter's classification under rule 47.4, identify the sign or oral language for which the interpreter is needed, and set the level of compensation for the interpreter consistent with state court administration's standard statewide fees and policies for compensation.
 - **47.3(9)** Examination of court interpreter qualifications.

- a. At the start of any court proceeding for which an interpreter will be providing services, the court will question the interpreter on the record regarding the interpreter's classification. If the interpreter is not a Class A or Class B interpreter, the court will inquire on the record about the interpreter's education, knowledge of English and the other language, and interpreting experience.
- b. If the court finds that the interpreter meets the minimum qualifications in rule 47.2(1), is the highest classified interpreter who is reasonably available consistent with rules 47.3(4) through (7), and has no disqualifying conflict of interest, the court may approve an existing order appointing the interpreter or may enter an order appointing the interpreter.
- c. At any time during the court proceeding, if the court finds a reasonable basis to believe that an interpreter does not have the appropriate knowledge, skills, or experience to competently interpret the court proceeding, or that the interpreter has a disqualifying conflict of interest, the court must discontinue use of the interpreter.
- **47.3(10)** Persons prohibited from appointment as a court interpreter. A court may not appoint a person to be a court interpreter in a legal proceeding if that person is a family member or personal friend of any of the parties or of the person needing an interpreter, or of any person involved in the legal proceeding, including but not limited to: a domestic abuse advocate, attorney, court-appointed special advocate (CASA), juvenile court officer, law enforcement officer, or social worker.
 - **47.3(11)** *Disclosure of conflicts of interest and objections to a court interpreter.*
- a. A court interpreter must promptly inform the court of any known factors that could constitute a conflict of interest for the interpreter in the legal proceedings.
- b. Objections regarding a court interpreter's competence or conflict of interest must be made within a reasonable time after the grounds for the objection become apparent.
- c. Class A and Class B court interpreters, as defined in rule 47.4 and rule 47.5, are presumed competent to interpret in all legal proceedings.
 - d. The court will make rulings on objections on the record.
 - **47.3(12)** *Number of court interpreters.*
- a. A court may appoint more than one interpreter if it finds a reasonable basis for multiple interpreters for the court proceeding.
- b. When a party needs an interpreter and the court expects the interpreted event on a given day to be complex or to last more than four hours, the court must appoint more than one interpreter to serve as a team or as relay interpreters during the court proceeding and may appoint more than one interpreter for a deposition.
- c. When determining whether a court proceeding that is expected to be less than four hours is complex, the court may consider the following: the number of parties or participants who will need an interpreter; whether both a witness and a party will need an interpreter at the same time; whether technical or specialized terms will be used frequently in the court proceeding; and whether the gravity of the court proceeding enhances concern for the accuracy of the interpretation.
- d. When two or more parties with adverse interests in a case need an interpreter of the same language, the court will appoint a separate interpreter for each party, unless the parties knowingly and voluntarily waive the right to separate interpreters on the record.
- e. When the court appoints two or more interpreters for a proceeding, only one interpreter at a given time may provide the simultaneous interpretation of the general court proceedings and the consecutive interpretation of witness testimony for the LEP parties, while any additional interpreter will provide interpretation for attorney-client communications during the proceeding. In this situation, the proceedings and witness interpreter will use a mobile microphone and transmitter, and the LEP parties will use mobile receivers with headphones. The interpreters must rotate the duty of interpreting the proceedings and witness testimony at least once per hour.
- f. When a proceeding will be more than four hours, and two or more LEP parties or LEP parties and witnesses need an interpreter, the court may appoint fewer than two interpreters for each LEP party and direct the interpreters to work as a team to provide interpreting services for attorney-client communications and for general proceedings and witness interpretation as described in rule 47.3(12)(e).
- g. When an appointed American Sign Language (ASL) interpreter reports difficulty communicating with an LEP participant, the court may appoint a certified deaf interpreter (CDI) to work as a relay interpreter with the ASL interpreter.

- h. Whenever a government entity will be responsible for paying the interpreters, more than one interpreter will be paid for services during the same court or legal proceeding only if a court enters an order appointing more than one interpreter.
- 47.3(13) Interpreter cancellation and substitution. When a court interpreter learns that the interpreter will be unable to fulfill the terms of an appointment or agreement to interpret during a court proceeding, the interpreter must:
- a. Promptly arrange for a substitute interpreter who resides in the county where the court proceeding is scheduled to occur, or a county contiguous to that county, and who has a classification under rule 47.4 that is equal to or greater than the original interpreter's classification. When a substitute interpreter has been secured, the original interpreter must promptly inform the district court administrator's office or the clerk of district court where the court proceeding is scheduled and the attorney whose client needs an interpreter, if applicable, regarding the substitution.
- b. If the original interpreter is unable to secure a substitute interpreter consistent with rule 47.3(13)(a), the original interpreter must promptly inform the district court administrator's office or the clerk of district court where the court proceeding is scheduled that a substitute interpreter is needed for the court proceeding.
 - **47.3(14)** Reimbursement of oral language interpreter fees paid by state court administration.
- a. For purposes of rule 47.3(14), "interpreter" applies only to oral language interpreters and translators.
- b. When state court administration pays an interpreter for services provided to an LEP participant in a court proceeding, the court will apportion costs according to the following provisions:
- (1) In a criminal case in which an interpreter provided services for a non-indigent defendant, the court will order the defendant to pay the total amount of interpreter fees to the court.
- (2) In a child in need of assistance or termination of parental rights case in which an interpreter provided services for a parent, guardian, or custodian who was represented by a privately retained attorney, the court will order the person who needed the interpreter to pay the total amount of interpreter fees to the court.
- (3) In a juvenile delinquency case in which an interpreter provided services for a parent whose child was the subject of a delinquency petition, the court will order the parent who needed an interpreter to pay the total amount of interpreter fees to the court.
- (4) In a civil case other than child in need of assistance or termination of parental rights, the court will tax the total amount of interpreter fees as court costs pursuant to Iowa Code sections 622A.3(2) and 625.1.
- c. This rule does not limit the authority of the court to order the repayment of interpreter fees paid by another public agency, such as the state public defender, pursuant to any applicable statute or rule that authorizes or requires the repayment.
- [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

Rule 47.4 Classification of oral language court interpreters.

- **47.4(1)** Class A oral language court interpreter. A Class A oral language court interpreter is a certified interpreter who has met the requirements in rule 47.6 to be on the Iowa roster of court interpreters and has done one of the following:
- a. Satisfied all certification requirements for an oral language interpreter established by the Federal Court Interpreter Certification Program or the National Association of Judiciary Interpreters and Translators.
- b. Taken oral interpretation examinations for court interpreter certification approved by the Language Access Services Section of the National Center for State Courts (NCSC) and achieved a passing score of at least 70 percent correct on each of the three parts of the oral examination (sight interpretation of written documents, consecutive interpretation, and simultaneous interpretation) in a single test session.
- **47.4(2)** Class B oral language court interpreter. A Class B oral language court interpreter is a noncertified interpreter who has met the requirements in rule 47.6 to be on the Iowa roster of court interpreters and has done one of the following by July 1, 2019:

- a. Taken one of the court interpreter certification examinations identified in rule 47.4(1)(b) and did not meet the test score requirements for certification, but achieved a score of at least 65 percent correct on each of the three parts of the oral interpretation examination in one test session.
- b. Met the oral interpretation examination score requirements for court interpreter certification in a state that uses the oral interpretation examinations approved by the NCSC, but did not achieve scores of at least 70 percent correct on each of the three parts of the oral examination in a single test session.
- **47.4(3)** Class C oral language court interpreter. A Class C oral language court interpreter is a noncertified interpreter who has met the criteria under rule 47.6 to qualify for the Iowa roster of court interpreters, but has not met the criteria under rule 47.4(1) or (2) to be a Class A or B oral language court interpreter.
- 47.4(4) Unclassified oral language court interpreter. An unclassified oral language interpreter has not met the requirements under rule 47.4(1), (2), or (3) to be a Class A, Class B, or Class C oral language interpreter and has not met the requirements to be on an official list of qualified court interpreters in another state.
 - **47.4(5)** Oral language interpreters on a list of qualified interpreters approved by another state.
- a. Interpreters who have met the testing requirements for certification in rule 47.4(1)(a) or (b) by taking those examinations in another state, will be classified as certified court interpreters and receive the same hourly fee as Class A certified court interpreters in Iowa. These interpreters must still meet the requirements in rule 47.6 to be on the Iowa roster of court interpreters, and certified interpreters on the roster will receive preference for appointments over certified interpreters who are not on the roster.
- b. Interpreters who have met testing and training requirements to be included on a list of qualified court interpreters in another state, but who have not met the testing requirements in rule 47.4(1)(a) or (b), will be comparable to Class C interpreters in Iowa. These interpreters must still meet the requirements in rule 47.6 to be on the Iowa roster of court interpreters, and interpreters on the roster will receive preference in appointments over interpreters who are not on the roster. [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; November 16, 2018, effective

Rule 47.5 Classification of sign language court interpreters.

December 15, 2018]

- **47.5(1)** Class A sign language court interpreter. A Class A sign language court interpreter is a certified interpreter who:
- a. Holds a permanent license issued by the Iowa Board of Sign Language Interpreters and Transliterators and a "specialist certificate: legal (SC:L)" or a conditional legal interpreting permit—relay (CLIP-R) from the National Testing System of the Registry of Interpreters for the Deaf (RID); or
- b. Is a licensed sign language court interpreter in a state other than Iowa that has licensing requirements comparable to the requirements in Iowa Code section 154E.3 and holds a valid SC:L from the RID. Pursuant to Iowa Code section 154E.4(2)(a), an interpreter who meets these requirements may interpret in Iowa for up to 14 days per year without obtaining an Iowa license.
- **47.5(2)** Class B sign language court interpreter. A Class B sign language court interpreter is a noncertified interpreter who:
- a. Holds a permanent license issued by the Iowa Board of Sign Language Interpreters and Transliterators and has at least one of the following certificates: a certificate based on the National Interpreter Certification (NIC) examination; an advanced (NAD IV) or master (NAD V) certificate from the National Association for the Deaf (NAD); a valid comprehensive skills certificate (CSC), a master comprehensive skills certificate (MCSC), both a certificate of interpretation (CI) and a certificate of transliteration (CT), or a certified deaf interpreter (CDI) certificate from the National Testing System of the RID; or
- b. Is a licensed sign language court interpreter in a state other than Iowa that has licensing requirements comparable to the requirements in Iowa Code section 154E.3, and who holds one of the certificates or qualifications identified in rule 47.5(2)(a) and is on a list of noncertified sign language interpreters (without an SC:L) approved by the state court interpreter program in another

state. Pursuant to Iowa Code section 154E.4(2)(a) an interpreter who meets these requirements may interpret in Iowa for up to 14 days per year without obtaining an Iowa license.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018]

Rule 47.6 Iowa roster of court interpreters.

- **47.6(1)** Management. State court administration will maintain and publish the Iowa roster of court interpreters and may determine the order in which interpreters must complete the testing and training requirements in rule 47.4 to qualify for the roster. State court administration may remove an interpreter from the roster or change an interpreter's classification on the roster if a roster interpreter takes or retakes the oral language certification exam and achieves a score on one or more parts of the exam that is less than the minimum scores required to be on the roster. State court administration may also require a roster interpreter to retake the oral language interpreter certification exam if state court administration learns through an investigation that the interpreter failed to interpret at a level of competency comparable to the minimum language proficiency qualifications for being on the roster in rule 47.6(2)(d).
- **47.6(2)** Testing and training requirements. Beginning July 1, 2019, to be included on the roster, an interpreter must meet the qualifications in rule 47.4 and the following requirements:
- a. Ethics exam. All interpreters must take a written exam on the Code of Professional Conduct for Court Interpreters and achieve a score of at least 75 percent correct, unless the interpreter has taken the same or a similar exam in another state within the past five years and achieved a score of at least 75 percent correct.
- b. Written exam approved by the NCSC. Interpreters must achieve a score of at least 80 percent correct on a written exam for court interpreters that the National Center for State Courts (NCSC) has approved and that includes at least the following areas: general English vocabulary, legal terminology, and legal procedures. This requirement may be waived by state court administration if the interpreter has taken the same test in Iowa or another jurisdiction within the past five years, achieved a score of 80 percent correct, and has regularly provided court interpreter services each year since taking the exam.
- c. Court interpreter orientation program. An interpreter must complete the court interpreter orientation program approved by state court administration. State court administration may waive this requirement for an interpreter who has completed a similar training program in another jurisdiction, and who has regularly provided court interpreter services each year since completing that program.
 - d. Oral interpretation exam.
- (1) An interpreter of a language for which one of the testing organizations identified in rule 47.4(1) offers a court interpreter certification exam must take one of the exams and achieve a score of at least 55 percent correct on each of the three parts of the exam (sight, consecutive, and simultaneous interpretation).
- (2) An interpreter of a language for which the NCSC does not offer a court interpreter certification exam must take the ALTA Language Services oral proficiency interview (speaking and listening) exam in English and the interpreter's other language, under the supervision of a designee of state court administration, and must achieve a score of at least 11 (on a scale of 12) on each exam.
 - **47.6(3)** *Retaking the court interpreter written and oral interpretation exams.*
- a. Written multiple-choice exams. An interpreter may retake a written multiple-choice exam once in a six-month period. When there are multiple versions of a written exam, state court administration will rotate the exam versions.
- b. Oral language certification exams state court administration conducts. For oral language certification exams state court administration conducts, an interpreter may retake the same version of an exam once in a 12-month period. When there are multiple versions of the oral language certification exam, an interpreter must wait six months before taking a different version of the exam.
- c. Oral language certification exams the Federal Court Interpreter Certification Program conducts. Interpreters taking oral language certification exams the Federal Court Interpreter Certification Program conducts must comply with the rules established by the program regarding the retaking of the exams.

d. ALTA Language Services oral proficiency interview (speaking and listening) exam. An interpreter may retake an ALTA Language Services oral proficiency exam only once in a six-month period.

[Court Order August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; November 16, 2018, effective December 15, 2018; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021]

Rule 47.7 Reserved.

Rule 47.8 Application and test registration fees.

- **47.8(1)** The application fee to be an oral or sign language court interpreter is \$25. This fee cannot be waived or refunded.
- **47.8(2)** The registration fee for the two written examinations identified in rule 47.4(1)(a) is \$50 for Iowa residents and \$100 for nonresidents. If the applicant has already passed at least one of the two examinations, the registration fee is \$25 for Iowa residents and \$50 for nonresidents.
- **47.8(3)** The registration fee for each oral proficiency interview examination is \$65 for Iowa residents and \$130 for nonresidents.
- **47.8(4)** The registration fees for the three-part oral interpretation certification examination approved by the NCSC's Language Access Services Section is \$250 for Iowa residents and \$500 for nonresidents.
- 47.8(5) All fees set forth in this rule must be paid to state court administration. The interpreter application fee is due at the time the application is filed. Test registration fees are due on or before the registration deadline established by state court administration.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; May 18, 2015, effective July 1, 2015; December 13, 2017, effective January 1, 2018; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

Rule 47.9 Language Access in the Courts Advisory Committee. The Iowa Supreme Court will appoint a Language Access in the Courts Advisory Committee (advisory committee) to provide guidance to state court administration regarding language access policies in the courts and to assist state court administration in administering the disciplinary systems for court interpreters and translators.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; September 14, 2021, effective October 1, 2021]

Rule 47.10 Complaint and disciplinary process.

- **47.10(1)** *Purpose.* These rules establish the procedure whereby an oral or sign language interpreter or translator may be removed or suspended from the roster described in rule 47.6.
- **47.10(2)** Applicability. These rules apply to the delivery of services by oral and sign language interpreters or translators in any legal proceeding, court-ordered program, or office of the Iowa Judicial Branch.
 - **47.10(3)** Procedures for complaints against oral language court interpreters or translators.
- a. Complaints. A complaint against a court interpreter or a translator must be filed with state court administration on a form available from that office or through the Iowa Judicial Branch website. A complaint must be signed by the complainant, provide the complainant's full address, telephone number, and email address, if any, and contain substantiating evidence supporting the complaint. State court administration may also initiate a complaint.
- b. Review of complaints. State court administration will review all complaints and may seek additional information from the complainant as well as a response from the court interpreter or translator if state court administration deems necessary. If state court administration determines that the allegations made within the complaint are serious enough to warrant the suspension or removal of the court interpreter or translator from the roster, then state court administration will forward the complaint, response, and any investigative materials to the chair of the advisory committee. The chair will appoint a panel of at least three advisory committee members to consider the complaint.

- c. Dismissal of complaints. The advisory committee panel may dismiss the complaint without further action if it appears the complaint wholly lacks merit, alleges conduct that does not constitute misconduct or rise to the level of a disciplinary violation under the Code of Professional Conduct for Court Interpreters and Translators, or does not comply with the requirements for a complaint or is not supplemented as requested. In such instances, state court administration will notify the complainant of the advisory committee panel's decision. The advisory committee panel's summary dismissal is not subject to review.
- d. Responses to complaints. If the advisory committee panel does not dismiss the complaint, it will notify the interpreter or translator of the complaint in writing. The notice should state that the interpreter or translator may provide a written response to the complaint, request a hearing, or both, within 30 days from the date of the notice. If a written response has previously been provided, the advisory committee panel may, at its discretion, request a supplemental response.
- e. Advisory committee action. If the advisory committee panel does not dismiss the complaint, the panel will review the complaint upon the papers filed unless the interpreter or translator requests a hearing or the panel determines that a hearing is necessary.

f. Hearing and decision.

- (1) *Time and format of hearing*. A hearing will be scheduled to occur within 60 days after the complaint is assigned to the advisory committee panel. The hearing will be informal and strict rules of evidence will not apply. During the hearing, the interpreter or translator has the right to be represented by counsel at the interpreter's or translator's expense, to confront and cross-examine witnesses, and to present evidence.
- (2) Location; subpoenas; recording. The hearing will be held at the Judicial Branch Building unless state court administration and the interpreter or translator agree otherwise. An advisory committee panel member, the interpreter or translator, state court administration, or state court administration's designee, may request the clerk of the district court of the county in which the disciplinary hearing is to be held to issue subpoenas in connection with the matter, and the clerk will issue the subpoenas. Any member of the advisory committee panel is empowered to administer oaths or affirmations to all witnesses. The hearing will be recorded electronically, unless the interpreter or translator pays for a court reporter and the subsequent transcript, if necessary.
- (3) Burden of proof. Any grounds for discipline under rule 47.10(5) must be shown by a convincing preponderance of the evidence.
 - (4) Advisory committee panel actions. The advisory committee panel may:
 - 1. Dismiss the complaint.
 - 2. Impose a private admonition.
- 3. Require the interpreter to refund fees to a client for court interpreter services by a specified date to remain on the roster.
- 4. Require that the interpreter take specified education courses by a specified date to remain on the roster.
- 5. Require that the interpreter retake and pass one or more of the three examinations identified in rule 47.6(2) by a specified date to remain on the roster.
 - 6. Suspend or revoke the interpreter's roster status or certification, if any.
- 7. Suspend or bar the interpreter from interpreting in legal proceedings or court-ordered programs, or both.
- (5) Advisory committee panel decision. The advisory committee panel will file a written decision with the chair of the advisory committee, with a copy sent to state court administration. State court administration will promptly forward a copy of the decision to the interpreter or translator by email and ordinary mail to the address on record with state court administration. If the determination of the advisory committee panel was a suspension or revocation of the interpreter or translator's roster status or certification, state court administration will immediately remove the interpreter or translator from the roster unless otherwise instructed in writing by the chair of the advisory committee.
- g. Petition for review. The interpreter or translator may file a petition for review of the advisory committee panel's decision with state court administration. The petition for review must be received by state court administration within 30 days after state court administration mails the decision to the interpreter or translator. The petition must state all claims of error that were raised before the panel and the reasons for challenging the panel's determination. State court administration will transmit the complete record in the case to the state court administrator.

- h. Submission and decision on review. Unless state court administration requests otherwise, the petition will be submitted based upon the record previously made and without supplementation or hearing. After considering the record, state court administration or state court administration's designee may sustain or deny the petition or enter such other appropriate order. State court administration's order is conclusive, and no petition for rehearing is permitted.
- i. Costs. Costs of the disciplinary proceeding will be assessed against the interpreter or translator for any private admonition, public sanction, or any agreed disposition that taxes costs against the interpreter or translator. For purposes of this rule, costs include those expenses normally taxed as costs in state civil actions pursuant to Iowa Code chapter 625, including but not limited to expert witness fees and translation, transcription, and interpreter fees. The interpreter or translator must pay the costs as a condition for reinstatement.
- j. Application for reinstatement. An interpreter or translator may file an application for reinstatement from an order suspending or revoking a certification, roster status, or privilege of interpreting or translating in court. The application must be filed with state court administration and include payment of a \$100 reinstatement fee. The application must show that all conditions for reinstatement imposed in the panel's decision or any resulting state court administration decision have been satisfied, the interpreter or translator is currently fit to interpret or translate in court, and all costs have been paid. The interpreter or translator must also swear or affirm that the interpreter or translator did not provide interpreting or translating services in any legal or court proceeding during the suspension period.
- k. Reinstatement decision. State court administration will review the application for reinstatement and, if the requirements have been fulfilled, may reinstate the interpreter or translator on the roster. If any requirement has not been fulfilled, state court administration will inform the interpreter or translator of what remains to be completed before reinstatement on the roster can occur.
 - l. Confidentiality.
- (1) All records, papers, proceedings, meetings, and hearings of the advisory committee panel are confidential, unless the panel imposes the following: a public reprimand; a suspension or revocation of a certification, roster status, or privilege to interpret or translate before the courts; a requirement that fees be refunded to a client for court services; or a form of discipline that the panel and the interpreter or translator agree should be made public.
- (2) If the advisory committee panel imposes public discipline, the decision and the complaint will become public upon filing with state court administration.
- (3) If the advisory committee panel does not impose public discipline and the records do not become public documents, the records and papers will remain confidential unless they are ordered released by a judge in a related court case. The party or attorney requesting the confidential records must sufficiently demonstrate to the judge the relatedness of the records to the court case in question. The records are not otherwise subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the interpreter or translator, the attorneys, or the attorneys' agents involved in the disciplinary proceeding before the advisory committee panel.
- (4) Every witness in every disciplinary proceeding under rule 47.10 must swear or affirm to tell the truth and not to disclose the existence of the disciplinary proceedings or the identity of the interpreter or translator until the disciplinary proceeding is no longer confidential under these rules.
- (5) Any communications, papers, and materials concerning any complaint that may come into the possession of a committee member are confidential, and the member must keep such confidential material in a safe and secure place.
- (6) Nothing in this rule prohibits the advisory committee or an advisory committee panel from releasing any information regarding possible criminal violations to appropriate law enforcement authorities, wherever located, or to interpreter or translator disciplinary and admission authorities in other jurisdictions.
- m. Temporary suspension. Notwithstanding the provisions of this rule, state court administration may temporarily remove an interpreter or translator from the roster and suspend the interpreter's right to interpret or translate in legal proceedings, court-ordered programs, and offices of the Iowa Judicial Branch upon a showing of a clear violation of the Iowa Code of Professional Conduct for Court Interpreters and Translators or exigent circumstances demonstrating that the interpreter or translator currently lacks the capacity to interpret court proceedings or translate court documents. Any suspension of an interpreter's or translator's right to interpret or translate in Iowa courts must

provide the interpreter or translator with an opportunity to file a petition for review with state court administration explaining why the temporary suspension order should be lifted.

- **47.10(4)** Procedures for complaints against sign language court interpreters.
- a. Complaints. A complaint against a sign language court interpreter must be filed with the Iowa Board of Sign Language Interpreters and Transliterators (board) and must follow the procedures outlined in Iowa Administrative Code 645—Chapter 363, Discipline for Sign Language Interpreters and Transliterators.
- b. Notice to state court administration. A sign language interpreter who receives a notice from the board that a complaint has been filed against the interpreter must promptly provide written notice to state court administration that a complaint has been filed against the interpreter, including the date the complaint was filed and a description of the alleged misconduct. The interpreter also must promptly provide written notice to state court administration after the disciplinary process has been concluded, including the date and type of disposition. A sign language interpreter's failure to provide these notices will be considered grounds for disciplinary action and a disciplinary process may be commenced under procedures in rule 47.10(3).
- **47.10(5)** *Grounds for discipline.* The following actions may constitute misconduct for which a court interpreter may be subject to discipline:
 - a. Violation of the Code of Professional Conduct for Court Interpreters and Translators.
- b. Conviction of a felony in this state or any other jurisdiction or conviction of a lesser crime that involves dishonesty or moral turpitude. A crime is a felony if it is so defined in the jurisdiction where the conviction was entered at the time of the conviction.
 - c. Disciplinary action involving the interpreter's services in another jurisdiction.
- d. Discipline by the Board of Sign Language Interpreters and Transliterators pursuant to Iowa Administrative Code section 645—Chapter 363.
- e. Providing incompetent interpretation, which includes, but is not limited to, repeated incomplete or inaccurate interpretation that significantly inhibits or distorts communications between an LEP person and the court or between an LEP person and that person's attorney.
 - f. Dishonest billing for interpreter or translator services.
- g. Engaging in prohibited interpreting while suspended. This action may subject an interpreter to additional discipline.
- **47.10(6)** Aggravating or mitigating circumstances. When determining the appropriate discipline for interpreter misconduct, the advisory committee panel may consider factors that include, but are not limited to, the following:
- a. Aggravating circumstances. Aggravating circumstances that may justify an increase in the degree of discipline imposed include, but are not limited to:
 - (1) Prior disciplinary offenses.
 - (2) Dishonest or selfish motive.
 - (3) A pattern of misconduct.
 - (4) Multiple offenses.
 - (5) Bad faith obstruction of the disciplinary proceeding.
- (6) Submission of false evidence, false statements, or other deceptive practices during disciplinary process.
 - (7) Refusal to acknowledge wrongful nature of misconduct.
 - (8) Harm caused by the misconduct.
 - (9) Substantial experience as a court interpreter.
- b. Mitigating circumstances. Mitigating circumstances that may justify a reduction in the degree of discipline imposed include, but are not limited to:
 - (1) Absence of a prior disciplinary record.
 - (2) Absence of a dishonest or selfish motive.
 - (3) Personal or emotional problems contributed to the misconduct.
 - (4) Timely good faith effort to rectify consequences of the misconduct.
- (5) Full and free disclosure to the advisory committee panel or cooperative attitude toward proceedings.
 - (6) Inexperience as a court interpreter.
 - (7) Character or reputation.
 - (8) Physical or mental disability or impairment.
 - (9) Interim rehabilitation.

- (10) Remorse.
- (11) Substantial time since the prior offense(s).
- **47.10(7)** Duty to disclose. A court interpreter or translator must disclose to the OPR any potentially disqualifying criminal or ethical misconduct as defined in rule 47.2(1)(c)(3). [Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; October 24, 2019, effective January 1, 2020; December 16, 2019, effective January 1, 2020; September 14, 2021, effective October 1, 2021]

Rule 47.11 Recording of court proceedings.

- **47.11(1)** Interpreted testimony and communication with a judicial officer. The court will make appropriate electronic recordings of those portions of court proceedings when an interpreter is required for testimony that is given in a language other than English and when an interpreter is required for communication between a judicial officer and a participant who speaks a language other than English.
- a. Oral language interpreters. For court proceedings involving oral language interpretation, the court will use an electronic audio or audio-video recorder to meet this recording requirement.
- b. Sign language interpreters. For court proceedings involving a sign language interpreter, the court will make an audio-video recording of a full and clear view of the sign language interpreter and the LEP deaf, deaf-blind, or hard-of-hearing person.
- **47.11(2)** Retention of recordings. For small claims, civil infractions, simple misdemeanors, and uniform traffic citation cases, the recording must be maintained for one year after entry of judgment or sentence in district court or, if the judgment is appealed, one year after entry of the final judgment on appeal. For all other cases, the recording must be maintained for the same duration as court reporters' notes as set forth in Iowa Code section 602.8103.

[Court Orders December 22, 2003, April 26, 2004, and September 16, 2004, effective November 1, 2004; August 28, 2006, effective October 1, 2006; February 14, 2008, effective April 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015]

Rule 47.12 Court interpreter and translator compensation.

- **47.12(1)** Claims for compensation. After providing services in any legal proceeding or court-ordered program for which an interpreter or translator will be paid by a state or county office, the interpreter or translator must submit a claim for compensation to the court using a fee claim form approved by state court administration. Upon review and approval of the claim, the court will enter an order setting the maximum amount of compensation that may be paid to the interpreter or translator
- **47.12(2)** Policies for compensation of court interpreters and translators. State court administration will establish standard statewide fees and policies for compensation of court interpreters and translators who are paid by government entities. Government entities other than the courts that pay court interpreters and translators may adopt compensation policies that do not conflict with state court administration policies.

[Court Order February 14, 2008, effective April 1, 2008; June 5, 2008, effective July 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; September 14, 2021, effective October 1, 2021]

Rule 47.13 Written translations of court-related material.

47.13(1) *Definition of court-related materials.* As used in rule 47.13, "court-related material" includes written documents that are relevant to the court case and electronically recorded oral or sign communications in which one or more of the participants has limited English proficiency and the communications are relevant to the court case.

47.13(2) *Definition of a certified translator.*

- a. A certified translator has met the requirements for translator certification established by the American Translators Association (ATA) or the National Association of Judiciary Interpreters and Translators (NAJIT).
- b. A Class A certified court interpreter under rule 47.4(1) is not a certified translator of written documents unless the interpreter has also completed the requirements established by the ATA or NAJIT to be a certified translator.

- **47.13(3)** Priorities in the appointment of a translator of court-related material. When a translator of court-related material is needed, the court will appoint a translator in the following order of preference:
- a. Certified as a translator by the ATA or NAJIT in the required language combination (e.g., Spanish to English translation).
 - b. A Class A certified oral language court interpreter as defined in rule 47.4(1).
- c. If there is no person available who meets the qualifications in rule 47.13(3)(a) or (b) and who could deliver the translated material through regular or electronic mail by the required date, the court may approve a translator who has a degree from a four-year college or university and has sufficient knowledge and experience as a translator of English and the other required language to provide a complete and accurate written translation of the court-related material.
- **47.13(4)** Compensation of a translator. A translator whom the court appoints under rule 47.13(3) will receive the standard fee per word or per hour depending on the material to be translated. The standard translation fees will be established in an administrative directive by state court administration pursuant to rule 47.12(2). The court may approve a higher fee only if the court is unable to locate a qualified translator who is able to send and receive court-related materials via electronic mail, can perform the requested translation services by the required date, and will provide the translation service for the standard fee established by state court administration. A translator approved under this rule must submit a claim for compensation consistent with rule 47.12(1).
- **47.13(5)** Application for written translation of court-related material. When a party or attorney in a case involving an LEP person wants a written translation of court-related material from English into another language, or from another language into English, and the court or other government entity will be responsible for paying the translator, the LEP person or the LEP person's attorney must file with the court a timely application for a written translation of the court-related material. The application must include:
- a. An explanation of the need for a written translation of the court-related material and why an oral or sign language interpretation of the court-related material would not be sufficient to ensure due process under the circumstances.
 - b. If the court-related material is a written document, the application must also include:
 - (1) A brief description of the document's content.
 - (2) The language in which the document is written.
 - (3) The language into which the document should be translated.
 - (4) The number of words in the document to be translated.
- c. If the court-related material is an electronic recording of communications with an LEP person, the application must also include:
 - (1) A brief description of the nature of the communications.
 - (2) The number of persons involved in the communications.
 - (3) The languages spoken by the persons involved in the communications.
 - (4) Whether a language interpreter was one of the persons involved in the communications.
 - (5) The number of minutes of recorded communication involving one or more LEP persons.
- (6) Whether the applicant is requesting only a transcript of what the English-speaking person said and a translation into English of what the LEP person said during the communication or a transcript of what the English-speaking person said and a translation of what the LEP person said and an evaluation of the accuracy of the interpretation of an interpreter involved in the communication, if applicable.
- 47.13(6) Court approval of written translation and translator. The court may approve the application for the written translation of court-related material only if an oral or sign language interpretation of the material would not be sufficient to ensure due process under the circumstances. If the court approves a written translation of court-related material, the court will direct district court administration staff to locate a translator who meets the criteria in rule 47.13(3) and to comply with the policies for locating and paying translators as established by state court administration. After district court administration staff has located a qualified translator and agreed upon a fee for the translation service, the court will enter an order approving a written translation of court-related material and appointing the translator.

[Court Order June 5, 2008, effective July 1, 2008; August 10, 2009; December 4, 2014, effective July 1, 2015; December 13, 2017, effective January 1, 2018; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

Rule 47.14 Interpretation of legally binding documents submitted to the court.

- **47.14(1)** Legally binding documents. For the purpose of this rule, "legally binding documents" include but are not limited to settlement agreements, consent decrees, and guilty pleas.
- **47.14(2)** Selection of an interpreter to interpret a legally binding document outside a court proceeding. When an interpreter is required to interpret a legally binding document outside a court proceeding, attorneys must use the highest classified interpreter consistent with the priorities for selecting an oral language interpreter in rule 47.3(4) or the priorities for selecting a sign language interpreter in rule 47.3(5) and may seek assistance from district court administration staff to locate an interpreter who meets these qualifications.
- **47.14(3)** *Remote interpreters.* Attorneys may use a remote interpreter via telephone or video conference to interpret a legally binding document for an LEP party and must give preference to an interpreter the court has already appointed to interpret for the LEP party.
- **47.14(4)** Certification of interpretation of a legally binding document. When a party or attorney submits to the court a legally binding document that involves an LEP party, the person submitting the document to the court must also submit a court-approved "Certification of Interpretation of a Legally Binding Document" form in which the interpreter who interpreted the legally binding document for the LEP party includes:
- a. A statement that the interpreter completely and accurately interpreted the legally binding document from English into the LEP party's primary language to the best of the interpreter's ability and in the presence of the LEP party.
 - b. The interpreter's classification as determined by rule 47.4 or 47.5.
- c. If certified, the interpreter must include the state or organization that awarded the certification and the date of certification. If not certified, the interpreter must include the interpreter's classification on Iowa's roster of court interpreters or other state court's roster and include the interpreter's educational background with a list of degrees and institutions awarding each degree.
- d. A certification pursuant to Iowa Code section 622.1 using substantially the following form: "I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

Date	Signature"
[Court Order July 20,	2020, effective October 1, 2020

Rule 47.15 Application of rules to administrative agency proceedings. To the extent an administrative agency is subject to these rules pursuant to Iowa Code section 622A.7 or 622B.1(2), the agency is responsible for appointing interpreters to appear in agency proceedings and for approving interpreters' claims for compensation.

[Court Order December 4, 2014, effective July 1, 2015; July 20, 2020, effective October 2020]

Rule 47.16 Administration. The language access coordinator will serve as the principal executive officer for matters pertaining to the qualifications, classification, examination, continuing education, and discipline of court interpreters. State court administration, subject to the approval of the supreme court, may employ such other employees as may be necessary to carry out the duties of this chapter of the Iowa Court Rules.

[Court Order December 4, 2014, effective July 1, 2015; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

Rule 47.17 Immunity.

- **47.17(1)** Claims. Claims against state court administration and staff, or against members of the advisory committee, are subject to the State Tort Claims Act set forth in Iowa Code chapter 669.
- **47.17(2)** *Immunity.* State court administration and staff, and members of the advisory committee, are immune from all civil liability for damages for the conduct, communications, and omissions occurring in the performance of and within the scope of their official duties under these rules.
- **47.17(3)** *Qualified immunity.* Records, statements of opinion, and other information regarding an interpreter that are communicated by an entity, including any person, firm, or institution, without malice, to state court administration and staff, and the members of the advisory committee, are privileged; civil suits for damages predicated thereon may not be instituted.

[Court Order December 4, 2014, effective July 1, 2015; July 20, 2020, effective October 1, 2020; September 14, 2021, effective October 1, 2021]

Rule 47.18 Forms.

Rule 47.18 — Form 1: Certification of Interpretation of a Legally Binding Document.

	In the lowa District Court for	
	Coun	ty where this Certification is filed
		Case no
	laintiff/Petitioner all name of Plaintiff/Petitioner	Certification of Interpretation of a Legally Binding Document
	efendant/Respondent ill name of Defendant/Respondent	Iowa Court Rule 47.14(4)
1.	Certification statement	10 Ha Count Rate 47.1.1(4)
	I,, certify the Print your name	ne following: Read, complete, and check if you agree
	☐ I have completely and accurately interprewith this certification from English into	, the limited English
	proficient (LEP) party's language, to the b presence of	
	name of LEP	party
2.	Interpreter's classification Check A or B	
	I am: A. ☐ An oral language court interpreter \(\) Court rule 47.4)	with the following certification: Check one (Iowa
	Class A oral language court inte	rpreter
	☐ Class B oral language court inte	rpreter
	☐ Class C oral language court inte	rpreter
	Unclassified oral language court	interpreter
	Oral language interpreter on a li another state	st of qualified interpreters approved by
	State:	
	Classification level:	
	B. A sign language court interpreter w Court rule 47.5)	rith the following certification: Check one (Iowa
	Class A sign language court inte	erpreter
	Class B sign language court inte	erpreter
	Continued on	next page

Rule 47.18—Form 1: Certification of Interpretation of a Legally Binding Document, continued

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Α. [A certified inte	erpreter <i>If</i>	you check th	is box, comp	lete the next seci	tion
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^{*}Whether filing electronically or in paper, you must handwrite your signature on this form. If you are filing electronically, scan the form after signing it and then file electronically.

CHAPTER 49 OFFICE OF PROFESSIONAL REGULATION

Rule 49.1	Office of Professional Regulation of the Supreme Court of Iowa
Rule 49.2	Board and commission budgets
Rule 49.3	Authority to allocate funds
Rule 49.4	Fees for certificates; score transfers; copies
Rule 49.5	File retention and destruction

CHAPTER 49 OFFICE OF PROFESSIONAL REGULATION

- Rule 49.1 Office of Professional Regulation of the Supreme Court of Iowa. There is hereby created the Office of Professional Regulation of the Supreme Court of Iowa. The office of professional regulation consists of the following persons:
- **49.1(1)** An executive director, appointed by the supreme court. The executive director is responsible to the supreme court for the administration and program functions of the continuing legal education commission, the client security commission, the lawyer trust account commission, the grievance commission, the attorney disciplinary board, the unauthorized practice of law commission, the board of examiners of shorthand reporters, and the board of law examiners. The executive director also is responsible for administration of the court interpreter examination program.
- **49.1(2)** A director of attorney discipline, appointed by the executive director with the approval of the supreme court. The director of attorney discipline is responsible to the executive director of the office of professional regulation for the administration of the attorney disciplinary board.
- **49.1(3)** Such other directors, appointed by the executive director of the office of professional regulation with the approval of the supreme court, to be responsible to the director of the office of professional regulation for administration of boards and commissions as the executive director may designate.
- **49.1(4)** Such other staff members as the supreme court may from time to time direct, appointed by the executive director with the approval of the court.

[Court Order December 5, 2007; November 20, 2015, effective January 1, 2016; July 24, 2019, effective August 1, 2019; September 14, 2021, effective October 1, 2021]

Rule 49.2 Board and commission budgets. Annual budgets for the continuing legal education commission, the client security commission, the lawyer trust account commission, the grievance commission, the board of examiners of shorthand reporters, the board of law examiners, the unauthorized practice of law commission, and the court interpreter examination and licensing program, must be prepared for each fiscal year running from July 1 through June 30. At least 60 days prior to the start of each fiscal year or on a date otherwise specified by the supreme court, the executive director must submit to the supreme court annual operating budgets for each of these boards and commissions, which may be amended as necessary.

[Court Order December 5, 2007; December 13, 2017, effective January 1, 2018; September 14, 2021, effective October 1, 2021]

Rule 49.3 Authority to allocate funds. The fees collected under the provisions of chapters 39, 41, and 42 of the Iowa Court Rules may be allocated and used for such purposes within the office of professional regulation as the supreme court may direct.

[Court Order December 5, 2007; December 10, 2012; December 13, 2017, effective January 1, 2018]

Rule 49.4 Fees for certificates; score transfers; copies.

- **49.4(1)** The boards and commissions of the office of professional regulation must collect fees as the supreme court prescribes for providing:
- a. Certificates of disciplinary history, certificates of continuing education history, certificates of client security history, certificates of license status, or similar certificates.
 - b. Certifications or transfers of examination scores.
 - c. Copies of official records in electronic form.
 - d. Copies of official records in paper form.
 - e. Reissued certificates of admission.
- **49.4(2)** Fees collected under rule 49.4(1) are allocated to the board or commission preparing the certificate or providing the copies for such purposes as the supreme court may direct. [Court Order November 20, 2015, effective January 1, 2016; December 13, 2017, effective January 1, 2018]
- **Rule 49.5** File retention and destruction. Unless otherwise required by court rule or order, files and records maintained by the boards and commissions of the office of professional regulation must be retained for at least three years after the last board or commission action on the matter. For purposes

of this rule, destruction of paper records after the records have been transferred to computer storage is permitted immediately after the transfer. [Court Order July 24, 2019, effective August 1, 2019]